

MEMBER PROPOSALS ON TAX ISSUES INTRODUCED IN THE 109TH CONGRESS

HEARING BEFORE THE SUBCOMMITTEE ON SELECT REVENUE MEASURES OF THE COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES ONE HUNDRED NINTH CONGRESS

FIRST SESSION

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MEMBER PROPOSALS ON TAX ISSUES INTRODUCED IN THE 109TH CONGRESS

WEDNESDAY, NOVEMBER 16, 2005

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON SELECT REVENUE MEASURES,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:06 p.m., in room 1100, Longworth House Office Building, Hon. Dave Camp (Chairman of the Subcommittee) presiding.

[The advisory and revised advisories announcing the hearing follow:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON SELECT REVENUE MEASURES

FOR IMMEDIATE RELEASE
September 20, 2005
No. SRM-5

CONTACT: (202) 225-1721

Camp Announces Hearing on Member Proposals on Tax Issues Introduced in the 109th Congress

Congressman Dave Camp (R-MI), Chairman, Subcommittee on Select Revenue Measures of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on individual tax proposals introduced in the 109th Congress. **The hearing will take place on Tuesday, September 20, 2005 in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 2:00 p.m. Requests to testify must be received by the close of business Monday, September 12, 2005.**

Oral testimony at this hearing will be from Members of the House. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Subcommittee and for inclusion in the printed record of the hearing.

BACKGROUND:

This hearing provides Members the opportunity to testify on tax proposals of importance to their constituents. In announcing the hearing, Chairman Camp stated, "We have the privilege of regularly hearing from Ways and Means Members on issues of import to their districts. This hearing seeks input from Members outside the Committee on tax provisions of interest to their constituents."

FOCUS OF THE HEARING:

This hearing provides Members the opportunity to testify on tax proposals of importance to their constituents.

DETAILS FOR SUBMISSIONS OF REQUESTS TO BE HEARD:

Requests to be heard at the hearing must be made by telephone to Michael Morrow or Kevin Herms at (202) 225-1721 no later than the close of business Tuesday, September 13, 2005. The telephone request should be followed by a formal written request faxed to Allison Giles, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515, at (202) 225-0942. The staff of the Subcommittee will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Subcommittee staff at (202) 226-5911.

Members scheduled to present oral testimony are required to summarize briefly their written statements in no more than five minutes. **THE FIVE-MINUTE RULE WILL BE STRICTLY ENFORCED.** The full written statement of each witness will be included in the printed record, in accordance with House Rules.

In order to assure the most productive use of the limited amount of time available to question witnesses, all witnesses scheduled to appear before the Subcommittee are required to submit 100 copies, along with an *IBM compatible 3.5-inch diskette*

in *WordPerfect* or *MS Word* format, of their prepared statement for review by Members prior to the hearing. **Testimony should arrive at the Subcommittee office, 1135 Longworth House Office Building, no later than 9:00 a.m., Monday, September 19, 2005.**

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, <http://waysandmeans.house.gov>, select "109th Congress" from the menu entitled, "Hearing Archives" (<http://waysandmeans.house.gov/Hearings.asp?congress=17>). Select the hearing for which you would like to submit, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the on-line instructions, completing all informational forms and clicking "submit" on the final page, an email will be sent to the address which you supply confirming your interest in providing a submission for the record. You **MUST REPLY** to the email and **ATTACH** your submission as a Word or WordPerfect document, in compliance with the formatting requirements listed below, by close of business Tuesday, October 4, 2005. **Finally**, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. Those filing written statements who wish to have their statements distributed to the press and interested public at the hearing can follow the same procedure listed above for those who are testifying and making an oral presentation. For questions, or if you encounter technical problems, please call (202) 225-1721.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word or WordPerfect format and **MUST NOT** exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. All submissions must include a list of all clients, persons, and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone and fax numbers of each witness.

Note: All Committee advisories and news releases are available on the World Wide Web at <http://waysandmeans.house.gov>.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

* * * NOTICE—CHANGE IN DATE AND TIME * * *

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON SELECT REVENUE MEASURES

FOR IMMEDIATE RELEASE
September 07, 2005
No. SRM-5 Revised

CONTACT: (202) 226-5911

Change in Date and Time for Hearing on Member Proposals on Tax Issues Introduced in the 109th Congress

Congressman Dave Camp (R-MI), Chairman, Subcommittee on Select Revenue Measures of the Committee on Ways and Means, today announced that the Subcommittee hearing on individual tax proposals introduced in the 109th Congress, previously scheduled for Tuesday, September 20, 2005, at 2:00 p.m., in the main Committee hearing room, 1100 Longworth House Office Building, *will now be held at a future date and time to be determined.*

All new details for the hearing will be announced in a subsequent advisory, including details for providing a submission for the record. All previously-received submissions will be carried over and should not be resubmitted. (For more information, see Subcommittee advisory No. SRM-5, dated August 10, 2005.)

* * * NOTICE—CHANGE IN DATE AND TIME * * *

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON SELECT REVENUE MEASURES

FOR IMMEDIATE RELEASE
November 15, 2005
No. SRM-5 Revised #2

CONTACT: (202) 226-5911

Change in Date and Time for Hearing on Member Proposals on Tax Issues Introduced in the 109th Congress

Congressman Dave Camp (R-MI), Chairman, Subcommittee on Select Revenue Measures of the Committee on Ways and Means, today announced that the Subcommittee hearing on individual tax proposals introduced in the 109th Congress, previously scheduled for Tuesday, September 20, 2005, at 2:00 p.m., in the main Committee hearing room, 1100 Longworth House Office Building, *will now be held on Tuesday, November 15, 2005, at 10:00 a.m.*

Requests to be heard at the hearing must be made by telephone to Michael Morrow or Kevin Herms at (202) 225-1721 **no later than close of business Friday, November 4, 2005**. The telephone request should be followed by a formal written request faxed to Allison Giles, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515, at (202) 225-0942. The staff of the Subcommittee will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Subcommittee staff at (202) 226-5911.

The deadline to provide a submission for the record will now be close of business, Tuesday, November 29, 2005. All other details for the hearing remain the same. (See Subcommittee Advisory No. SRM-5, dated September 7, 2005).

* * * NOTICE—CHANGE IN DATE AND TIME * * *

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON SELECT REVENUE MEASURES

FOR IMMEDIATE RELEASE
November 10, 2005
No. SRM-5 Revised #3

CONTACT: (202) 226-5911

Change in Date and Time for Hearing on Member Proposals on Tax Issues Introduced in the 109th Congress

Congressman Dave Camp (R-MI), Chairman, Subcommittee on Select Revenue Measures of the Committee on Ways and Means, today announced that the Subcommittee hearing on individual tax proposals introduced in the 109th Congress, previously scheduled for Tuesday, November 15, 2005, at 10:00 a.m., in the main Committee hearing room, 1100 Longworth House Office Building, **will now be held on Wednesday, November 16, 2005, at 2:00 p.m.**

All other details for the hearing remain the same. (See Subcommittee Advisory No. SRM-5, dated September 7, 2005, and SRM-5 Revised #2, dated October 25, 2005).

Chairman CAMP. Good afternoon. Today, the Subcommittee on Select Revenue Measures will hear testimony from Republican and Democrat Members. Their testimony will assist the Committee in exploring ways to improve our tax system and may provide useful insights as we begin to explore options for tax reform. While the Members of the Committee on Ways and Means are often contacted by professionals in government, academia and business concerning proposed tax simplification and reforms, Members of the House themselves have useful insights. This hearing will offer the opportunity to hear from our colleagues regarding tax proposals that are important to them and their constituents. Now I recognize Mr. Larson for his opening statement.

Mr. LARSON. Thank you, Mr. Chairman. Let me echo your sentiments that I think this is a fine tradition that the Committee has established; and it does provide us an opportunity to hear from distinguished Members of our own Committee who have tremendous insight and have, more often than not, bipartisan proposals that we hope the Committee can speedily move along. But as you point out as well, I think more often than not the opportunity to hear from Members themselves who have been out in their district, who get feedback and input from their constituents can provide tremendous insight into enhancing our tax laws and regulations here in the U.S. Congress. So, I thank the Chairman for the opportunity and anxiously await the testimony of our colleagues.

Chairman CAMP. Thank you very much. Our first panel will include the Honorable Benjamin Cardin, a Member of the Committee and a Representative in Congress from the State of Maryland; the Honorable Mark Foley, also a Member of the Committee on Ways and Means from the State of Florida; the Honorable Tom Davis, a Representative in Congress from the State of Virginia; and the Honorable Jim Ryun, a Representative in the Congress from the State of Kansas. We will start with Mr. Cardin. Welcome.

STATEMENT OF THE HONORABLE BENJAMIN L. CARDIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. CARDIN. Thank you, Mr. Chairman, Mr. Larson. It is a pleasure always to be before the Committee on Ways and Means. I didn't get enough last night until midnight. I thought I would come back this morning and share some more time with you. Mr. Chairman, I would ask that my statement be included in the record; and I will just briefly summarize it. I am here on behalf of two bills, one, H.R. 1549, which is the home ownership tax credit, renewing the dream tax credit, which is sponsored with Mr. Reynolds and myself; and we have now 184 co-sponsors, both Democrats and Republicans. This bill would pattern after the low-income housing tax credit to provide tax incentives for affordable home ownership as we do with low-income housing tax credit with affordable rental housing. I want to make it clear this legislation builds on the successful experiences of the low-income housing tax credit, and we want to make sure that we don't at all take away from the continuation and growth of that program. This would supplement the low-income housing tax credit for home ownership.

There is a disconnect today between market value and affordability for home ownership. We all know the importance of home ownership, and this legislation is trying to bridge that gap. It would generate, it has been estimated, \$2 billion in private investment, \$6 billion in development activity and 122,000 jobs a year. It enjoys broad support from the private sector, including the National Association of Home Builders, the National Conference of State Housing Agencies, the National Association of Realtors, Fannie Mae, Freddie Mac, and a number of nonprofit organizations, including the Enterprise Foundation, the Local Initiative Support Corp. and Habitat for Humanity International. I might point out it was included in the President's fiscal year 2004 budget recommendations. The second legislation that I would like to talk

about is the Artist Contribution to American Heritage Act of 2005. This bill is sponsored by myself and Mr. Ramstad and, again, has bipartisan co-sponsorship by Democrats and Republicans. It was included in the Senate version of the CARE Act; and what it does is allow artists, writers and composers to be able to deduct the fair market value of their work for charitable contributions. This is basically an equity issue. If you are a non-artist and make a contribution, you get the fair market value. Why shouldn't the artist be able to get the fair market value? It existed in our tax laws until 1969, and it would allow us to preserve America's heritage. I would urge the Committee to favorably consider both of these bills. Thank you, Mr. Chairman.

[The prepared statement of Mr. Cardin follows:]

**Statement of The Honorable Benjamin L. Cardin, a Representative in
Congress from the State of Maryland**

I. Homeownership Tax Credit (H.R. 1549)—

This bipartisan legislation, which I introduced with Representative Reynolds, enjoys the support of 173 cosponsors. H.R. 1549 will encourage the construction and rehabilitation of homes for low- and middle-income families in economically distressed areas. Similar to the Low Income Housing Tax Credit, our bill would provide states with an annual tax credit allocation of \$1.80 per capita (with a floor of slightly more than \$2 million for states with small populations). State housing finance agencies would then allocate the credits to developers who construct or rehabilitate owner-occupied homes in census tracts with median incomes of 80% or less of the area or state median. Prospective homebuyers generally must be at or below 80% of median income as well in order to qualify.

Studies have shown that homeownership encourages personal responsibility, promotes economic security, and gives families a greater stake in their communities. In addition to spurring home ownership, *our legislation would generate an estimated \$2 billion of private equity investment, \$6 billion of development activity, and 122,000 jobs each year.*

H.R. 1549 has the support of a broad coalition of groups with substantial expertise in the housing industry, including the National Association of Home Builders, the National Conference of State Housing Agencies, the National Association of Realtors, Fannie Mae and Freddie Mac, and a number of non-profit organizations, including the Enterprise Foundation, the Local Initiative Support Corporation and Habitat for Humanity International. The proposal is based on a provision included in the President's FY 2004 budget recommendations.

Although national homeownership levels have reached historic highs, the dream of homeownership remains out of reach for many families living in economically distressed areas. Our homeownership tax credit would bridge the gap between the cost of developing homes in these areas and the price at which such homes can be sold to low- and moderate-income buyers. The homeownership tax credit will help an estimated 50,000 low- and moderate-income families in our Nation's urban and rural communities achieve the American dream of homeownership each year.

II. Artists' Contribution to American Heritage Act of 2005 (H.R. 1120)—

This bipartisan bill, which I introduced with Representative Ramstad, enjoys the support of 43 cosponsors and was included into the Senate version of the CARE Act. H.R. 1120, would allow artists to deduct the "fair market value" for charitable contributions of any literary, musical, artistic or scholarly composition. To qualify for the deduction, the donated work would have had to be created within 18 months prior to the donation, and the artist, writer or composer would have to be a professional whose work had been sold, performed or exhibited. The measure also would require the artist to obtain a written appraisal of the fair market value of the work by a qualified appraiser, and to deduct the entire amount the year the gift is made.

If an artist gives his/her work to a museum/nonprofit organization, the artist should receive the same tax treatment as a collector who buys an artistic work and donates it to the same museum/nonprofit. Right now, the artist may only receive a tax deduction for the cost of the goods used to make the art—e.g., the paint and canvas versus the value of the art created if sold on the open market. The collector currently receives a tax deduction for the fair market value of the work. This bill encourages art to be shared with the public—artists will be more likely to donate

their art if they do not have a large financial incentive to sell it to a private collector. *There is a federal interest in maintaining public access to American art.*

This measure would restore the artistic donation deduction that was allowed prior to 1969. Since the change in the law denying the deduction, many works of art that would have been contributed to American institutions have been sold to private collections or abroad. We want to ensure that American works of art remain in our country for the benefit of everyone. It's only fair that American artists, composers, and writers get a fair-market deduction for their work.

Chairman CAMP. Thank you very much. Mr. Foley.

STATEMENT OF THE HONORABLE MARK FOLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. FOLEY. Thank you, Mr. Chairman, as well; and we appreciate the opportunity to testify. Like many of us, I have a number of tax-related issues I feel need to be looked at, but there is one in particular every year that comes back to haunt us for its failure to exist, and that is allowing property and casualty insurers to create tax-deferred reserves to cover the cost of future mega-catastrophes. The idea is not new. It has been discussed by the insurance industry for years and was first introduced in this legislative form in 1999 by myself and our former colleague, the late Bob Matsui. It has been introduced every Congress since. The bill this year is H.R. 2668, known as the Policyholder Disaster Protection Act. The idea behind this legislation is very simple. We currently have no incentives in law to allow insurers to set aside reserves they can later use to cover future catastrophic losses. As a result, insurers lean largely on premiums to cover disasters as they occur; and, as the State of Florida can attest, that almost always leads to insurance premium increases for homeowners. We have done a lot in Congress to encourage individual savings through the Tax Code, particularly retirement savings, but we haven't applied this same principle to insurance companies, which deal in losses created by natural disasters, and it is stunning that we haven't.

Mr. Chairman, natural disasters are predictable. In Florida, we know every year from June through November, regrettably, that we will have hurricanes. We don't know in advance how many or how strong, but the last couple of years have been a doozy. Many regions of our country face similar predictable seasons. We have read on the news today about Indiana and other areas that have had horrific tornados, the wildfires out in California, Arizona, and the floods throughout the central plains. Yet, despite this predictability, we haven't given the one industry focused on helping us recover from these disasters the tool it needs to do that without either going bankrupt or repeatedly upping homeowners premiums, something that is entirely politically unpopular. When Hurricane Andrew tore through south Florida in 1992, it left 58 people dead and more than 15 billion in insured losses alone. Ten Florida insurance companies went belly up because they could not absorb the losses. The past 16 months, Florida has been hit by nine hurricanes, four of them back to back, causing \$22 billion in insured losses. Together, they account for 201 hurricane-related deaths. The most recent hurricane was Wilma, which ripped through Florida, causing at least \$10 billion in insured losses. Of course, it

came on the heels of Hurricane Katrina, which ravaged the Gulf States, causing horrible death and at least \$35 billion in insured losses.

These are just a few of the examples that cumulatively are overwhelming the ability of U.S. insurance companies to cover these losses under traditional methods. Actually, we are the only one of a few industrialized nations that do not allow insurance companies to plan ahead with tax-deferred reserves; and ultimately that means there is no real protection for homeowners should they fall victim to a mega-disaster that overwhelms both individual company resources and state insurance pools. The policy Disaster Protection Act would correct that. It would give insurance companies the option of building up reserves over a 20-year period on a tax-deferred basis, much like an individual retirement account, so that the resources will be there down the road to cover insured losses from a catastrophic natural disaster. Much like your IRA, there is protection in our bill, which if the insurance companies take it out for anything other than a disaster, they would not only have to pay the income tax at the time but also a penalty for, as they say, early withdrawal.

The bill is not an immediate fix. It cannot help with whatever losses another disaster this year or next may inflict on our communities, but it can prepare us for the mega-disasters down the road, which is why it has been endorsed over the years by a wide range of groups, from the United Homeownership Association to the National Taxpayers Union. This past Sunday, Tom Gallagher, Florida's Chief Financial Officer, spoke in support of my bill, and I quote, "I am also asking Congress to consider Representative Mark Foley's legislation allowing tax-deferred catastrophic reserves for insurers." Insurance companies must be encouraged to prepare for inevitable catastrophes. Our current Federal tax policy discourages those preparations and allows for higher costs that ultimately are passed on to policyholders. If this policy had been in place after Hurricane Andrew, we probably would have had more than \$20 billion in capacity to pay claims after the 2004 storms and avoided the capital crisis that we are facing in Florida today. Mr. Chairman, that sums up my testimony on our bill.

[The prepared statement of Mr. Foley follows:]

**Statement of The Honorable Mark Foley, a Representative in Congress
from the State of Florida**

Mr. Chairman,

Thank you for holding this hearing today to allow us to testify on issues we believe Congress should address. It's an opportunity I know we all appreciate.

Like many of us, I have a number of tax-related issues that I feel need to be looked at, from outmoded depreciation schedules for building roofs to more sensible tax treatment of REMICS.

All of these issues are important—and I will continue to press for their inclusion in appropriate tax vehicles as we go along.

But there is one issue in particular that, every year, comes back to haunt us for its failure to exist—and that is, changing the tax code to allow property and casualty insurers to create tax-deferred reserves to cover the costs of future mega-catastrophes.

This idea is not new. It has been discussed by the insurance industry for any number of years and was first introduced in legislative form in 1999, in the 106th Congress, by myself and our late colleague Bob Matsui. Bob and I continued to re-introduce the idea in each successive Congress until his tragic death. I introduced it for the first time without him this year—the bill is H.R. 2668.

Mr. Chairman, the idea behind this legislation—though complicated as a bill—is very simple. We currently have no incentives built into our tax laws that would help insurers build up reserves they can use later to cover future catastrophic losses. As a result, they lean largely on premiums to cover disasters as they occur—and as the State of Florida can attest, that almost always leads to insurance premium increases for homeowners.

Congress has done a lot by way of tweaking the tax code to encourage individual savings—particularly retirement savings so that people can help themselves in their retirement years rather than having to lean heavily on government for resources to survive. But we have not taken that same principle and applied it to insurance companies, which deal in losses created by natural disasters.

Natural disasters are predictable. We know in Florida that every year, from June until the end of November, we will face hurricanes. We don't know in advance how many or how strong they will be in any one season. But we know for a certainty they will occur. And most regions of our country have similar predictability with natural events—whether they are tornadoes, floods, earthquakes or fire.

Yet despite this predictability, we have not given the one private industry focused on covering losses from these disasters the tool it needs to do that job without either going bankrupt or repeatedly upping homeowner premiums.

When Hurricane Andrew tore through south Florida in 1992, it left 58 people dead and more than \$15 billion in insured losses alone. Ten Florida insurance companies went belly-up because they could not absorb the losses. Had Andrew hit the nearby city of Miami directly, the losses would have approached \$50 billion, the loss of life even more significant and an estimated third of all insurers in Florida would have been forced into insolvency.

In the past 16 months, Florida has been hit by nine hurricanes—four of them back-to-back causing \$22 billion in insured losses. Together, they accounted for 201 hurricane-related deaths.

The most recent hurricane was Wilma, which ripped through Florida causing at least \$10 billion in insured losses. And, of course, it came on the heels of Hurricane Katrina, which ravaged the Gulf States causing horrible death and destruction.

I only mention these as examples of how the destruction of these storms alone—not to mention the destruction from other disasters like tornadoes and earthquakes—are overwhelming the ability of insurance companies to cover these losses under traditional methods.

The United States is almost alone among industrialized nations in not allowing insurance companies to plan ahead with tax-deferred reserves. What that means is that, barring government assistance, there is no real protection for insured homeowners should they fall victim to a mega-disaster that overwhelms both individual company resources and state insurance pools.

The Policyholder Disaster Protection Act would correct that. It would give insurance companies the option of building up reserves over a 20-year period on a tax-deferred basis—much like an IRA—so that the resources will be there down the road to cover insured losses from a catastrophic natural disaster.

This bill is not an immediate fix. It cannot help with whatever losses another disaster this year or the next may inflict on our communities. But it can prepare us for future mega-disasters down the road, which is why it has been endorsed over the years by a wide range of groups, from the United Homeowners Association to the National Taxpayers Union.

It is my hope, Mr. Chairman, that this subcommittee will take a hard look at this issue so that we can start planning ahead for disasters we know will occur rather than scrambling to react in their wake.

We can start allowing insurance companies the ability to remain solvent to cover catastrophic losses—or we can start getting used to writing checks from the U.S. Treasury to cover those losses at the expense of all taxpayers.

Thank you, Mr. Chairman.

Chairman CAMP. Thank you very much. Mr. Davis.

STATEMENT OF THE HONORABLE TOM DAVIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. DAVIS. Well, thank you. I ask that my whole statement be made part of the record and—

Chairman CAMP. Absolutely, without objection.

Mr. DAVIS. I first want to address H.R. 994. This is a bill I introduced in March. We reported it out of our Committee on government Reform, which has some jurisdiction on this issue. We passed it out by voice vote. This bill relieves Federal retirees, military retirees and active duty military personnel from the tax burden they face when paying health care premiums. It is called premium conversion. Right now, active Federal employees get that deduction; retirees don't; the active duty military don't; retired military don't. This premium conversion benefit is widely available in the private sector. It has been available to executive branch employees for almost 5 years. Federal Government has a long history of treating our active and retirees the same. They have access to the same health care plans, so why shouldn't they have the same ability to pay the premiums with pretax dollars? Why shouldn't our military personnel be able to do the same under their TRICARE programs? This legislation will help our Federal retirees offset the ever-increasing cost of health care premiums, which are rising faster than the government's cost of living increases. In addition, this benefit would also provide the Federal government with a significant recruitment and retention tool in our struggle to keep the best and brightest from jumping to the private sector.

Next bill I want to bring up is H.R. 1765. This is known as the Generating Opportunity by Forgiving Educational Debt for Service, or the GOFEDS Act. This was also reported out of our Committee by voice vote. The aim of the GOFEDS Act is to attract and retain employees who have recently completed undergraduate or graduate level education by allowing them to treat the student loan repayments they get from government agencies as tax-free income. For a lot of employees today, student loans can be crippling to a monthly budget; and employers who offer student loan repayment benefits have an advantage over those who don't. The GOFEDS Act would improve the effectiveness of the existing loan repayment program as a recruitment tool and improve the administration of Federal programs by ensuring we have the best talent available. House Resolution 1765 simply puts the Federal Government on par with nonprofits and educational institutions who already exclude loan repayment from an employer's taxable income. Why should we treat our Federal employees any worse? I encourage the Committee to support these two important tax incentives so that we can better meet the Federal Government's workforce challenges which are very critical to the success of our government's core mission today and in the future.

I also want to spend a few minutes discussing some tax-related issues pertaining to the Nation's capital. Over the past decade, D.C. has embarked on an impressive road to financial recovery. With the help of the Federal Government, the District is taking care of its financial house. It has balanced its budget for 8 consecutive years without tricks or gimmicks, and it has a cash reserve that is the envy of almost every municipality in the Nation. Federal tax incentives have played a very important part of the economic revitalization in the Nation's capital. The D.C. Enterprise Zone and the first-time home buyer tax credit have been invaluable tools in promoting investment and reinvestment in the city and employment. The expiration of these tax incentives will undermine

the on-going efforts to sustain the city's economic vitality. The District's Enterprise Zone is critical to the District's efforts to diversify its economy, to build its tax base and help address the fiscal challenges facing the Nation's capital. Unlike other cities, the District has no choice but to turn to the Federal coffers in times of economic downturn and distress. We can do much more to help stabilize the District by expanding its Enterprise Zone to encompass the entire city. Obviously, every Enterprise Zone within the country would like to see its coverage expanded, but in the Nation's capital it is especially critical for Congress to expand the zone to cover the remaining portions of the city.

Currently, the Federal Government pays over \$500 million annually for services in the District; and approximately 40 percent of the land in the city is exempt from real property taxation because of its use by the Federal Government, 40 percent. Its expansion of the District's Enterprise Zone would enable Congress to constructively respond to the District's appeals for increase in permanent Federal payment. I also urge Congress to permanently extend the \$5,000 first-time home buyer tax credit. The credit has been instrumental in boosting home sales and stemming the flight from the city that eroded the District's tax base in the eighties. The home buyer's tax credit is an integral component to the city's campaign to attract new tax-paying homeowners into the Nation's capital. My complete statement also addresses a couple other issues that aren't directly before this Subcommittee, but I thank the Subcommittee for its time.

[The prepared statement of Mr. Davis follows:]

Statement of The Honorable Tom Davis, a Representative in Congress from the State of Virginia

Good morning. I would like to thank Subcommittee Chairman Camp and Ranking Member McNulty for inviting me to testify this morning on several important legislative proposals. The issues I would like to discuss cover recruitment and retention incentives for the federal workforce as well as policies to help the Nation's Capital thrive economically so that it can become less dependent on the federal government.

H.R. 994, allowing civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

I would like to first address H.R. 994, a bill I introduced in March and reported out of the Committee on Government Reform by voice vote in June. This bill currently has 283 cosponsors and had over 300 cosponsors last Congress. This bill has a lot of support for good reason. It would relieve federal retirees, military retirees, and active duty military personnel from the tax burden they face when paying for health care premiums. Health care costs in the Federal Employees Health Benefits Program, for example, have gone up by over 9% a year since 1999, leaving retirees with few options. H.R. 994 would alleviate these increases by saving retirees over \$400 per year in taxes. This might not seem like a lot of money, but to those on a fixed income, it can make a very significant difference.

This is a matter of equity. This is a benefit that is widely available in the private sector, and has been available to executive branch federal employees for almost five years. The federal government has a long history of treating our active employees and retirees the same—they have access to the same health care, why shouldn't they have the same ability to pay their premiums with before-tax dollars? And why shouldn't our military personnel be able to do the same under their Tricare programs?

This is also a matter of fairness. While the health care premiums are skyrocketing for everyone, federal retirees face heightened pressure since health care premiums are rising at a faster rate than the federal government's cost-of-living increase.

Competing for talented personnel with the private sector is no easy chore. This tax cut would also provide a significant retention tool that is tremendously needed by the government so that it can continue to have the best and brightest employees.

H.R. 1765, Generating Opportunity by Forgiving Educational Debt for Service

The next bill that I would like to bring to your attention is H.R. 1765, known as the "GOFEDS Act." This bill was also reported out of the Committee on Government Reform by voice vote in June.

The aim of the GOFEDS Act is to attract and retain employees who have recently completed undergraduate or graduate-level education. For a lot of employees today, student loans can be crippling to a monthly budget, and employers who offer student loan repayment benefits have an advantage over those that do not. In fact, research has shown that recent college graduates would rather work for an employer with a student loan repayment benefit than for an employer offering a higher salary but no repayment benefit.

The challenges facing our Nation—from homeland security to pandemic flu to energy supplies—require that we have the best and brightest in government service. But more Americans are opting for employment in the private and non-profit sectors, leaving the federal government hard-pressed to attract the right people to the right jobs. In its report on the need to build expertise in the federal workforce to protect the nation from bioterrorism, the Partnership for Public Service points out that biodefense agencies are finding it increasingly difficult to hire employees with the required scientific and medical expertise. The overall demand for biodefense talent will continue to rise for the foreseeable future—by as much as 25 percent through 2010—while the supply of such talent will decline unless we act.

The GOFEDS Act would improve the effectiveness of the existing loan repayment program as a recruitment tool and improve federal programs by ensuring we have the best talent available. While current law allows federal agencies to repay student loans on behalf of employees, up to \$10,000 a year with a \$60,000 cap, the incentive is taxed. Nonprofits and educational institutions offer loan repayments which, in contrast, are not counted as taxable income for the recipient. H.R. 1765 simply puts the federal government on par with nonprofits by excluding loan repayment from the employees' taxable income.

I strongly urge all of my colleagues to support these two important tax incentives so that we can better meet the federal government's workforce challenges, which are so critical to the success of the federal government's core mission, today and in the future.

Reauthorization of and Improvement to the D.C. Enterprise Zone

Over the past decade, the District of Columbia has embarked on an impressive road to financial recovery. With the help of the federal government, the District has taken care of its financial house. It has balanced its budget for eight consecutive years, without tricks or gimmicks, and it has a cash reserve that is the envy of almost every municipality in the Nation.

Federal tax incentives have played an integral role in the economic revitalization of the Nation's Capital. The D.C. Enterprise Zone and the first-time home buyer credit have been invaluable tools in promoting investment and employment. The expiration of these tax incentives would undermine ongoing efforts to sustain the District's economic revitalization.

The D.C. Enterprise Zone was established by the Taxpayer Relief Act of 1997 (P.L. 105-34) to encourage economic development in the District of Columbia. Thousands of District jobs have been created and dozens of businesses, associations and other organizations have been assisted in locating or expanding in the District. The credits for wages paid to District residents by employers in the D.C. Zone have created a business environment that has helped attract and retain thousands of jobs in the District for District residents. These investment incentives have played a major role in the redevelopment you see in the Gallery Place/Chinatown district, along the Anacostia waterfront, along the H Street Northeast corridor, and in numerous other locales throughout the Nation's Capital.

These tax incentives are critical to the District's efforts to diversify its economy, cushion economic shocks without the support of a State government, build its tax base, and help address the fiscal challenges facing our Nation's Capital. Unlike other cities, the District has no choice but to turn directly to the federal coffers in times of economic downturn and distress. We could do much more to help stabilize the District by expanding its Enterprise Zone to encompass the entire District.

Obviously every Enterprise Zone in the country would like to see its coverage expanded, but in our Nation's Capital it is especially critical for Congress to expand

the Zone to cover the remaining portions of the city. Expanding the Enterprise Zone would provide the District with the necessary tools to build an economic tax base in the city that would enable it to reduce its dependence on the federal government. Currently, the federal government pays over \$500 million annually for services in the District, and approximately 40% of the land in the District is exempt from real property taxation because of its use by the federal government, foreign governments and tax-exempt organizations. An expansion of the District's Enterprise Zone would enable Congress to constructively respond to the District's appeals for an increased and permanent federal payment for the District.

I also urge Congress to eliminate the sunset on the \$5,000 first-time homebuyer tax credit. The credit has been instrumental in boosting home sales and in stemming the flight from D.C. that eroded the District's tax base in the 1980's. Under the Mayor's leadership, the District is working towards the goal of attracting 100,000 new residents by 2012. The homebuyer tax credit can help make that a reality. Thousands of first-time homebuyers have been able to purchase homes (that might not otherwise been able to). The IRS reports that from 1998 through the third quarter of 2003, more than 21,000 taxpayers have claimed this credit.

Additional Ways & Means Related Issues Pertaining to the Nation's Capital

I would also like to mention three other important issues pertaining to the Nation's Capital.

First, I would like to work with you to authorize tax-exempt bonds to refinance the construction cost of the MCI Center in downtown Washington. In 1996, the District of Columbia intended to finance the major cost of construction of the MCI Center with tax-free bonds. However, as construction neared, the City expressed concern to the Washington Sports and Entertainment Commission that the District's credit rating was junk bond grade due to the economic situation at the time. The Commission chose to move ahead by privately financing construction because of the belief that the MCI Center would spark redevelopment downtown. Since that time the bond rating for the District has been upgraded and MCI has generated over \$20 million in city tax revenue. This is a project that has sparked redevelopment and generated millions of dollars in benefits to the city. Replacing the current high-cost bank debt that the Commission took to build the MCI Center with federal tax-exempt bonds is simply the right thing to do.

Secondly, I ask for your assistance in enacting legislation to implement the President's FY2006 Budget proposal that corrects a technical inequity in the federal reimbursement rate for adoption and foster care maintenance payments to the District of Columbia under Title IV-E of the Social Security Act. The President proposes to re-link the District's Title IV-E reimbursement rate to its Medicaid match level, bringing the District into conformity with federal practice in all other states.

Lastly, during the 1980's, Congress authorized Medicaid Disproportionate Share Hospital allotment (DSH) adjustments to assist hospitals that serve a disproportionate number of low-income patients. The District is seeking to change the baseline figure set by the Balanced Budget Act of 1997. The District's allotment was incorrectly established by the Balanced Budget Act of 1997 at \$23 million for each fiscal year beginning in FY '98, and as a result, the District has lost over \$137 million since 1998.

The District of Columbia is the Nation's Capital, and maintaining it, growing it and modernizing it—these are national responsibilities. The federal government has a unique relationship with the District of Columbia and shares responsibility to ensure it is a healthy and vibrant city. A robust federal tax policy for the District serves the interests of the federal government, the local community and the Nation as a whole.

Closing

In closing, I look forward to working with Members of this Committee on all of these important initiatives. Congress plays an integral role in shaping the future workforce of the federal government and in ensuring the long-term financial stability of the Nation's Capital. In doing so, we are taking steps to ensure that federal tax policy is crafted in a way that promotes the economic and efficient use of taxpayer dollars. Thank you for the opportunity to testify.

Chairman CAMP. Thank you very much. Mr. Ryun.

STATEMENT OF THE HONORABLE JIM RYUN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Mr. RYUN. Chairman Camp and Members of the Subcommittee, I appreciate the opportunity to testify on two very important bills helping our senior citizens. First, I would like to talk about H.R. 414, the Hearing Aid Tax Credit. House Resolution 414 would provide a tax credit of up to \$500 per qualifying hearing aid once every 5 years either for an individual 55 years or older or for a dependent child. Many people do not know that hearing aids are not covered under Medicare or under the vast majority of State-mandated-benefits. In fact, over 71 percent of hearing aid purchases involve no third-party payment, which places the entire burden of the purchase on the customer. Without financial assistance, many Americans who could be treated simply go without hearing aids. In fact, while 95 percent of the individuals who have hearing loss could be successfully treated with hearing aids, only about 22 percent currently use them. Moreover, 30 percent of those with hearing aids cite financial restraints as a primary reason for not using hearing aids. The average cost of a hearing aid in 2004 was \$1,800. About two-thirds of those individuals' hearing loss require two devices, one for each ear, which makes the average cost \$3,600. For seniors on limited income, a \$500 tax credit would go a long way to ensure that they seek the treatment that they need. Hearing loss is not only a problem for seniors, however. Hearing loss is among the most prevalent birth defects in America, currently affecting more than 2 million children under the age of 18 in this country.

The U.S. Department of Education indicates that over 70,000 students ages 6 to 21 received special education services in 2002 alone due to hearing loss. Special education, coupled with lost wages and health complications, cost our Federal Government thousands of dollars each year. According to a recent study, children who do not receive early intervention cost the schools an additional \$420,000 during their careers. In addition, in 2005, the Better Hearing Institute found that untreated hearing loss results in a loss of income per household up of to \$12,000 per year. For that 24 million Americans with untreated hearing loss who pay taxes, this translates into a cost to society of \$18 billion annually in unrealized income taxes. The Hearing Aid Tax Credit currently has 82 sponsors, including a substantial number on this Committee, Ways and Means. I believe the Hearing Aid Tax Credit would be a great help to both those who already scraped together the money to purchase hearing aids but, more importantly, to those who decided not to purchase hearing aids for themselves or their children simply because they cannot afford them. Second, I would like to talk about H.R. 2202, the Social Security Benefits Tax Fairness Act. It is an act that—that particular act would increase the base and adjusted base amounts by \$4,000 and index that according to inflation.

As you know, the base and adjusted base amounts determine if a senior must pay taxes on their Social Security benefits. The base amount for an individual is \$25,000 and \$32,000 for joint filers. The adjusted base amount for individuals is \$34,000 and \$44,000 for joint filers. Currently, if an individual or married couple's combined income is above the base amount, they must pay taxes on 50

percent of their benefits. If their combined income was above the adjusted base amount, 85 percent of those benefits are taxed. Prior to the passage of the Social Security amendments 1983, Social Security benefits were not subject to Federal income tax. The base and adjusted base amounts, however, were introduced in 1983 and 1993 respectively. Since then, the income levels used to determine tax liability on Social Security benefits have not changed. As a result, as retirement income increases with inflation, more individual or middle-class seniors are forced to pay taxes on the benefits. For this reason, I believe that we should increase the base and adjusted base amounts and index them for inflation. While I support completely eliminating the taxes on benefits, I believe this is more of a moderate approach and a more viable option to reducing taxes on seniors without creating a large revenue deficit. Reducing the number of middle-class seniors who have to pay taxes on their benefits will increase the number of seniors who are able to pay for the rising cost of daily living. I encourage this Committee to consider both H.R. 2202 and H.R. 414. I am happy to respond to any questions you might have.

[The prepared statement of Mr. Ryun follows:]

Statement of The Honorable Jim Ryun, a Representative in Congress from the State of Kansas

Thank you Chairman Camp, Ranking Member McNulty, and Members of the Subcommittee for giving me the opportunity to testify. Today, I will highlight two bills that I have introduced to give a helping hand to senior citizens.

First, I would like to talk to you about H.R. 414, the Hearing Aid Tax Credit. H.R. 414 would provide a tax credit of up to \$500 per qualified hearing aid, once every five years, either for an individual age 55 or older, or for a dependant child.

Many people do not know that hearing aids are *not* covered under Medicare, or under the vast majority of state mandated benefits. In fact, over 71% of hearing aid purchases involve no third party payment, which places the entire burden of the purchase on the consumer.

Without financial assistance, many Americans who *could* be treated simply go without a hearing aid. In fact, while 95% of individuals with hearing loss could be successfully treated with hearing aids, only about 22% currently use them.¹

Moreover, 30% of those with hearing loss cite financial restraints as a primary reason for *not* using a hearing aid.

The average cost for a hearing aid in 2004 was \$1,800. Almost 2/3 of individuals with hearing loss require two devices, increasing average out of pocket expenses to \$3,600. For seniors on limited incomes, a \$500 tax credit would go a long way to ensure that they seek the treatment that they need.

This special education coupled with lost wages and health complications costs the Federal government thousands of dollars each year. According to a recent study, children who do not receive early intervention cost schools an additional \$420,000 during their careers.²

In addition, in 2005, the Better Hearing Institute found that untreated hearing loss results in a loss of income per household of up to \$12,000 per year.³ For the 24 million Americans with untreated hearing loss who pay taxes, this translates to a cost to society of \$18 billion annually in unrealized income taxes.

The Hearing Aid Tax Credit currently has 82 cosponsors, including substantial support from the Committee on Ways and Means.

I believe that the Hearing Aid Tax Credit would be a great help to both those who already scrape together the money to purchase hearing aids—*but more importantly*—to those who decide not to purchase a hearing aid for themselves or their children because they simply cannot afford it.

¹ MarkeTrak VI, published in the Hearing Journal, December 2001.

² International Journal of Pediatric Otorhinolaryngology, 1995.

³ "The Impact of Untreated Hearing Loss on Household Income," Better Hearing Institute, July 2005.

Second, I would also like to talk to you today about H.R. 2202, the Social Security Benefits Tax Fairness Act. Like the Hearing Aid Tax Credit, this bill would provide help for America's seniors. H.R. 2202 would increase the base and adjusted base amounts by \$4,000 and index them according to inflation.

As you know, the base and adjusted base amounts determine if a senior must pay taxes on their Social Security benefits. The base amount for individuals is \$25,000, and \$32,000 for joint filers. The adjusted base amount for individuals is \$34,000, and \$44,000 for joint filers.

Currently, if an individual's or married couple's combined income is above the base amount, they must pay taxes on 50% of their benefits. If their combined income is above the adjusted base amount, 85% of their benefits are taxed.

Prior to the passage of the Social Security Amendments of 1983, Social Security benefits were not subject to Federal income tax. The base and adjusted base amounts, however, were introduced in 1983 and 1993, respectively.

Since then, the income levels used to determine tax liability on Social Security benefits have not changed. As a result, as retirement incomes increase with inflation, more middle class seniors are forced to pay taxes on their benefits.

For this reason, I believe that we should increase the base and adjusted base amounts and index them for inflation. While I support completely eliminating taxes on benefits, I believe this is a more moderate approach, and a viable option to reduce taxes on seniors without creating large revenue deficits.

Reducing the number of middle class seniors who have to pay taxes on their benefits will increase the number of seniors who are able to pay for the rising costs of daily living.

I encourage the committee to consider both H.R. 2202 and H.R. 414. I am happy to answer any questions you may have.

Chairman CAMP. Thank you for your testimony. Thank you all for your testimony. I just have a couple of questions. Mr. Foley, your bill, H.R. 2668, isn't that something insurance companies should already be doing, is planning reserves for catastrophic events? If this bill were enacted, is there any evidence that premiums would be lower as a result of it?

Mr. FOLEY. Well, that is the unique feature of our insurance industry. They cannot reserve for future losses. They can only reserve for losses that have occurred. So, basically, what they do, they do collect premiums, of course. They pay out shareholder dividends, they pay claims, and then, if there is a disaster, then they allocate for that through future earnings. But the problem is there are no earnings there. They are depleted, if you will, covering ongoing expenses. Every other country has realized that the burden cannot fall on the policyholders each and every occurrence. In Florida, for instance, a storm occurs. They pay out the claims. They go to the rate regulators and say we need an increase to cover that storm. They get a horrific increase in their bill. So, by doing the provisions we have, it is much like saving for your retirement. We give people an individual retirement account. Pretax dollars go in. If it is taken out for anything else other than your retirement, there is a penalty. So, it is using that very same model; and what it will do, Mr. Camp, is provide a cap, if you will, on the increasing surging cost of premiums. So, we would like to see it more leveled. Why we are trying to be anxiously introducing this bill, and have since 1999, is that it is going to take a number of years to build it up, the solvency for these entities. But we lost, as I said in my testimony, a lot of companies in Florida. A lot of them changed their registration. I know Mr. Larson comes from a State that has a large corporate presence of insurance companies. They bailed out. They said, you know what, we will cover our risks elsewhere. A lot

of people say, oh, it is a Florida issue. Well, it is not, as I mentioned in my testimony. Every State is suffering horrific weather or some other natural disasters, and so they are all starting to say maybe we need a national way in which to deal with this commonality of problems.

Chairman CAMP. Okay, thank you very much. Mr. Davis, the D.C. Enterprise Zone legislation that you are proposing, those are some impressive statistics. I might argue—or how would you respond to someone who would say, well, gee, the D.C. Enterprise Program has been a success; we don't really need to do any more. What would be your comment on that?

Mr. DAVIS. Well, the city—it is an urban city. It has transformed markedly in the time that you have been in Congress, and I have been there, and we see it coming back. One of the major reasons is in these enterprise zones there are tax incentives for doing that, the same with the first-time home buyers credit. We are bringing people out of the suburbs back into the city where they work. It is helping traffic and everything else. I just think, by expanding it, you are allowing the city more financial independence so they don't have to keep running to Congress for more money, they don't have to be talking about a commuter tax, they can build and establish their own tax base. We don't give them a vote in Congress, and yet they are dying in Iraq. They are a city of residents that are being taxed like everybody. I think this is something unique about it. This really came from a concept of Jack Kemp and others. This was originally a deal that was put together when Bill Archer was Chairman of this Committee, and he didn't like it at all because Houston couldn't get it. Connie Mack pushed this from the Senate side, and an agreement was struck, and we kind of drew a line down the city looking at income areas. That is really not the way you want to do an Enterprise Zone over the long term. So, the lines don't make any sense. They were kind of arbitrarily drawn. Making them citywide we don't think hurts the rest of the region, but we think it does help put life back into the Nation's capital, which should be a source of pride for all of us.

Chairman CAMP. All right. The student loan bill that you have, are Federal agencies authorized to pay a portion of student loans now, do you know?

Mr. DAVIS. They can do it. They can do a piece of it. But it comes out of their direct appropriation, is my understanding.

Chairman CAMP. So, it is subject to appropriation?

Mr. DAVIS. Or they eat it from their agency. Just like pay raises, they have to eat it. The other thing is that it is not a year-to-year thing. There is no—you don't know if it is going to happen. What we find as we are out recruiting for the best and brightest at job fairs and everything, we have tried to streamline it now where we can give hiring bonuses. But to really get the cream, being able to pay down that student loan to give people a 4- or 5-year commitment to the Federal Government that we couldn't get otherwise. The private sector is using this like crazy to get good people. I think it is something that we could copy and put to use.

Chairman CAMP. All right. Thank you very much. Mr. Larson may inquire.

Mr. LARSON. Thank you very much, Mr. Chairman. Let me say in his absence, again, I want to thank Mr. Cardin as well who has introduced thoughtful legislation along with Mr. Reynolds of this Committee. There is so much bipartisan support for all of the initiatives that are before us, I hope that the Committee is able to take them up in rapid fashion. Let me say I wholeheartedly support Mr. Cardin's initiatives. Mr. Foley, I thought you did a great job of explaining what happens in terms of the ability of insurance companies to really set aside those reserves, so I won't belabor the point. I think you have articulated it very well, and I think it is an outstanding approach. I agree with you. It is one that I think increasingly we are going to have to look at country-wide not only as it relates to natural disasters but as we struggle to get a TRIA bill before another Congress as well, that all of these have a significant relationship to one another. So, I commend you for your proposal. Mr. Davis as well, who enjoys bipartisan support from the Ranking Member of this Committee, Mr. McNulty, and others. My only question, especially as it relates to H.R. 994, is, from your position as Chairman, has there been any indication from Chairman Thomas whether or not they plan to move the bill into Committee? Because I do believe, again, that allowing the Federal workforce, civilian and military, to pay for their health insurance on a pretax basis upon retirement makes eminent sense; and I know it enjoys wide support. Any indication—

Mr. DAVIS. Well, let me just add, if we could report out of this Subcommittee and get it to a vote of the full Committee, it would enjoy a majority support. We have 283 co-sponsors, and I think we had over 300 in the last Congress. You know more how Chairman Thomas works than I do, having to work with him on a day-to-day basis, but we would be encouraged if we could send it up out of this Subcommittee or the next step. We have sent it out of our full Committee.

Mr. LARSON. Thank you. Last, Mr. Ryun again, let me commend you as well for the proposals that you have put before us. I was just wondering with respect to the—you arrive at a figure of \$4,000 from—to be excluded from tax, adjusted for inflation. What was the rationale for \$4,000? I was trying to better understand that.

Mr. RYAN. It was a result of surveys we went through to try and determine what would be the best way to recognize that we needed to move those dollars larger every year so that we could provide more income for seniors.

Mr. LARSON. I thank you, Mr. Ryun. I thank all the Members for their testimony, and it is always great to have Olympians before the Committee as well.

Mr. RYAN. Well, if I may say, those numbers—if I can negotiate a little bit to help move the bill forward, we are willing to do that as well.

Chairman CAMP. I just had one question, Mr. Ryun. Your Social Security bill, H.R. 2202, does that affect the trust fund in any way?

Mr. RYAN. It is really a separate issue. What we are really trying to do is look at what would help seniors. I think the trust fund certainly has its own problems we need to deal with, but what I am attempting to do with my particular bill is recognize that we

need to adjust the income for seniors as the cost of living continues to increase.

Chairman CAMP. All right. Thank you all for testifying and for your very helpful comments and for appearing and discussing these important bills. We will move to our second panel. That panel will include the Honorable Cliff Stearns, Representative Congressman from the State of Florida; the Honorable Chaka Fattah from the State of Pennsylvania; the Honorable Vito Fossella, Representative Congressman, State of New York; the Honorable Brian Baird from the State of Washington; the Honorable Rob Simmons, a Representative in Congress from the State of Connecticut; and the Honorable Michael Conaway, Representative Congressman from the State of Texas. Thank you all very much. Each Member will have 5 minutes to discuss their legislation, and your full statement will be made a part of the record.

Chairman CAMP. We will start with Mr. Stearns. Welcome. Thank you for being here.

STATEMENT OF THE HONORABLE CLIFF STEARNS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. STEARNS. Thank you, Mr. Chairman. It is an honor to appear before your Subcommittee on a subject that affects every American, so it is absolutely important I think to discuss these. I want to talk to you, first of all, about my Health Care Tax Deduction Act of 2005. It is H.R. 218. It would simply allow any tax filer a deduction for amounts paid for health insurance premiums and unreimbursed prescription drug expenses through the short form, such as the 1040EZ. Frequently, my colleagues, we refer to the lack of tax parity and the health insurance and the individual market. Employers can write off the cost of health care coverage, but those in the individual market cannot without significant hurdles related to adjusted gross income—the HEI we all talked about—and itemizing. By allowing any filer to deduct full out-of-pocket costs, my bill strengthens incentives for individuals to purchase health care coverage; and this promotes, I think, tax fairness. Since 2003, the self-employed can deduct 100 percent of insurance premiums, a terrific step. H.R. 218 would simply help those filers with prescription drug expenses, while benefiting the retired, unemployed or students. Finally, speaking to the tax goal of simplicity, my bill is expansive, not prescriptive, in defining health insurance. Some proposals are targeted for health savings accounts or long-term-care insurance. This bill, in contrast, is not specific. It is drafted to the Internal Revenue Code definition of health insurance, so it encompasses all qualifying products: managed care plans, health savings accounts, long-term care. It would simply, Mr. Chairman, provide parity, yet not micromanage.

The second bill I am here to talk to you about is H.R. 221, the Simple Savings Tax Relief Act of 2005. Like the name suggests, this legislation provides a benefit for the most fundamental savings accounts. It permits a single filer to earn up to \$200, or a joint account \$400, in bank or credit union account interest tax free. That is it. Simply, the money from \$200 to \$400, depending upon whether you are single or married, joint account, would be tax free. I conceived of this legislation during the debate of The Jobs and Growth

Tax Relief Reconciliation Act of 2003. That prosperity spreading act I thought was a centerpiece, reduces taxes on dividends and capital gains. That is what it is. So, I voted for it. However, I thought afterward, while we are enabling capital investors, people that have the money to invest in stock equities and capital, what about the average American who is not able to do this, who cannot invest in stocks? He puts his money in simply a passbook account or to a credit union or to a savings account. So, we are giving the benefits for the person who is investing in capital and in stocks investment. We are giving no advantages for the person that is putting in the simple passbook accounts. Let's assist them also in prosperity. Why can't we give them tax freedom, too? For many Americans, a savings account is their simple entry into the savings world; and this would encourage savings. For low-income workers or young people just starting out, a passbook account may constitute an entire savings of their lifetime. As it is highly liquid, a savings account is a fine place to maintain cash, whether for life's unexpected misfortunes or for a nest egg. However, a saver must report this interest as income on their tax return, thereby increasing their tax burden. We should not punish saving for a rainy day by dampening part of that savings. We should encourage it.

Congress agrees. In February, 1998, the Joint Economic Committee said so, in effect, with their statement, *The Effects of Allowing an Interest and Dividend Exclusion* in their report. So, Mr. Chairman, the longer passage is in my testimony, but for brevity let me conclude by saying, reading from this report: One proposal that would help reduce the bias against savings would allow taxpayers to exempt from taxation the first \$200, \$400 for joint tax filers, of interest or dividend income earned. Such would primarily benefit the low- and middle-income taxpayers and boost savings incentives for small savers and non-savers, to create new savings incentives for taxpayers across the income spectrum, thus improving the efficiency and neutrality of the Tax Code. So, Mr. Chairman, I think that pretty much sums up what we have here. I think—both of my presentations today I think are worthwhile commending to your attention, and I thank you.

[The prepared statement of Mr. Stearns follows:]

**Statement of The Honorable Cliff Stearns, a Representative in Congress
from the State of Florida**

Thank you, Mr. Chairman, for giving me the opportunity to testify about tax legislation that I have authored. It is an honor to appear before your important Subcommittee, the actions of which affect absolutely every American whether they know it or not.

First, I would like to talk about legislation I have authored for many years. The Health Care Tax Deduction Act of 2005, H.R. 218, would allow *any* tax filer a deduction for amounts paid for health insurance premiums and unreimbursed prescription drug expenses.

A frequent topic before this Committee and amongst economists and health care policy experts concerns the lack of tax parity between employer-sponsored health insurance and the individual market. As we all know, employers can write off the cost of health care coverage purchased for their employees. I think, why can't individuals also be afforded the same opportunity to write off their premiums and unreimbursed prescription drug expenses? The current tax code sets the threshold at 7.5 percent of adjusted gross income (AGI) before medical expenses can be taken as a write-off. Furthermore, the individual(s) must file an itemized tax return. That doesn't seem right to me; I think we can provide stronger incentives for people to purchase coverage for themselves. I believe that to promote the tax goal of fairness, all taxpayers

should be allowed to deduct these out-of-pocket costs, and that we need to include a place where this deduction could be taken on the short form such as the 1040EZ. Since 2003, the self-employed can deduct 100 percent of their health insurance premiums. This is a terrific step in the right direction. My legislation would *still* help those filers with prescription drug expenses. And further, H.R. 218 would help other filers than the self-employed, such as the retired, the unemployed, or students. A final benefit of H.R. 218, which would promote the tax goal of simplicity, is that it is expansive, not prescriptive, in its definition of “health insurance”. Some of our fellow Members have written very targeted bills, that would render tax-deductible premiums for Health Savings Accounts in particular, or long-term care insurance in particular. These are helpful, but my bill is non-specific. H.R. 218 is drafted such that it refers to the Internal Revenue Code definition of health insurance encompassing all of these products: managed care plans, an HSA, or a long-term care policy all qualify. So in short, it would provide parity with employer-sponsored health insurance, but not micromanage what type of health insurance we in Congress think individuals should be buying. As is my philosophy, I want to infuse as much freedom and choice in the health insurance market as exists in the homeowner’s and auto insurance markets.

Next, I have introduced H.R. 221, the Simple Savings Tax Relief Act of 2005. Mr. Chairman, I started divining the utility of this legislation when this Committee, and this House, began constructing what ultimately became the Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA, PL 108–27). Like the name suggests, my legislation provides a benefit for the most simple of savers: it permits a single filer to earn up to \$200 (\$400 for joint filers) in bank or credit union account interest tax-free. That’s it.

We all are familiar with the centerpiece of that prosperity-spreading act: the reduced tax rate on both dividends and capital gains to 15% for taxpayers in the higher tax brackets, and 5% for those in the lower tax brackets. I was pleased to support and vote for that.

However, I kept thinking, while we are freeing up resources for some Americans, who may choose to invest for their futures via the capital markets, what about helping Americans who do not invest in corporations, but who do keep money in a bank or credit union savings account? I think we should assist them in reaching prosperity, too. For many Americans, a simple passbook savings account is their entree into the savings world. Adolescents and even children save their babysitting or lawn mowing money or allowance in an account to learn about personal finances. Then, for some Americans, particularly low-income workers, or young people just starting out in life, a simple passbook account constitutes their entire savings plan. Finally, for anyone of any age or financial stage, as it is highly liquid, a savings account is a fine place to maintain cash for quick, unexpected uses, such as major appliance repair, a new car, or a nest egg against life’s misfortunes like layoffs.

However, a savings account-holder’s frugality and delayed gratification is “rewarded” every April 15th by having to report this interest as income on their tax returns, increasing one’s tax burden. I don’t think we should punish those who save for a rainy day by taking away a part of that savings; I believe we should *encourage* them. I would like to incentivize *all* savers, whether you invest in Wall Street or have a bank account on Main Street.

And Congress’ top economists agree. For as a matter of fact, in February 1998, the Joint Economic Committee (JEC) of Congress wrote in “The Effects of Allowing an Interest and Dividend Exclusion”:

“One proposal that would help reduce the bias against saving would allow taxpayers to exempt from taxation the first \$200 (\$400 for joint tax filers) of interest or dividend income earned. Because of the low exclusion caps, such a proposal would primarily benefit low- and middle-income taxpayers and would boost saving incentives for small savers and non-savers. The proposal would interact with other initiatives, such as lower capital gains tax rates and expanded benefits for Individual Retirement Accounts, to create new saving incentives for taxpayers across the income spectrum, thus improving the efficiency and neutrality of the tax code.” (<http://www.house.gov/jec/fiscal/tx-grwth/exclude/exclude.htm><http://www.house.gov/jec/fiscal/tx-grwth/exclude/exclude.htm>).

One final feature I would like to tout about both of these pieces of legislation: they are both permissive, not limiting. The President’s Advisory Panel on Federal Tax Reform, which reported out two weeks ago, was charged with making recommendations for a tax code that is simpler, fairer, and more conducive to economic growth. While the Commission made different recommendations than I would have on health insurance premiums, and would *not* repeal interest taxation, we agreed in principle on moving in a direction of not pigeon-holing different savings for different purposes. Rather, my two bills and the Commission’s recommendations would con-

solidate what are currently distinct, targeted tax rules into one, robust bucket of household savings. The Commission's proposed "Save for Family Accounts" would consolidate health and education savings into one account to cover education, medical, new home costs, and retirement saving needs. Similarly, H.R. 221 does not micromanage the purpose of savings. And, my H.R. 218, as I said, does not limit what type of health insurance one purchases. It seems highly prescriptive to me that we have different set of laws for saving for your health, for your retirement, for a home or car. *All* of these areas in one's life contribute towards self-reliance and control over one's destiny, so they are *all* to be encouraged.

In conclusion, Mr. Chairman, I appreciate the opportunity to testify. I hope that as the House pursues comprehensive tax reform in the coming months, proposals such as my Health Care Tax Deduction Act and Simple Savings Tax Relief Act warrant your Subcommittee's consideration. Thank you.

Chairman CAMP. Thank you very much. Mr. Fattah.

STATEMENT OF THE HONORABLE CHAKA FATTAH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. FATTAH. Thank you, Mr. Chairman. It is a pleasure to be here before your Committee. Let me thank both Chairman Thomas and Ranking Member Rangel who requested that the Joint Committee on Taxation do some scoring. But let me personally thank you for helping facilitate us getting a response from the Joint Committee on Taxation prior to the Committee hearing. To the Ranking Member, Mr. McNulty, and Congressman Larson and my good friend Stephanie Tubbs Jones and to Congressmen Foley and Linder and Congresswoman Hart, who I served with in the senate, I am here to talk about H.R. 1601, which is legislation that I introduced that would have Treasury doing an analysis of an idea, and the idea is to eliminate the income tax, the payroll tax, the capital gains tax and other—the corporate property taxes and replace it with a transaction fee. We have had the Congressional Research Service do a lot of research on this, which we have provided to the Subcommittee, which shows that there would be a very substantial base of transition actions of which we could extract a very nominal fee from. In fact, the Congressional Research Service says that the most technically feasible way to enact this fee would be just to extract a fee as transactions move through the Federal Reserve system. There is some \$750 trillion in transactions each year, and if we were looking at revenue neutrality at 2.6, this would be a pretty simple arithmetic.

You can see from these charts that we have laid out that there is a substantial differential in the base for a transaction fee than any of the other proposals that either the President's commission has come forward with or any of the other known proposals that have been promulgated of late, and the difference in that base allows a very low rate under this concept. Now we are not asking the Congress to enact this proposal. What we are asking for is that there be a comprehensive study of this idea by Treasury. The Joint Committee on Taxation says in its letter to me—and we have provided that to the Committee—that the way that we have designed that study seeks to fairly get at these important questions and that there is a need for a comprehensive study. So, this legislation would cause Treasury to do the study. We think that, given the fact

that the Congress and this Committee has said that next year you are going to look at overall tax reform, it would be useful in that debate if we could have this study done and prepared so that we can have this as one of the concepts that would be considered in terms of fundamental reform to our tax system.

This has been endorsed by Governors like Bill Richardson and our former colleague, John Baldacci, the National Black Chamber of Commerce, which has over a hundred thousand businesses, mainly small businesses, in the country has endorsed this idea. At a minimum, we think that a Treasury Department study would at least give us a basis to rule it in or rule it out or to spend a lot of time debating it, along with the other proposals, whether it is a national sales tax or the flat tax or the President commission's two reports or some variation that this Committee in its wisdom might end up at at the end of the day. So, in order to advance the idea we need to study the legislation calls on the Treasury to do the study, and your Committee has jurisdiction of this legislation. So, I am here today, Mr. Chairman, to ask that it get consideration in your deliberations as you conclude your work for this session. I thank you for your time.

[The prepared statement of Mr. Fattah follows:]

**Statement of The Honorable Chaka Fattah, a Representative in Congress
from the State of Pennsylvania**

Albert Einstein once said, "The problems that exist in the world—cannot be solved by the same level of thinking that created them." Many of the tax reform proposals in the national dialogue, including, the flat tax and national sales tax, have been examined and bypassed by both the Reagan and Bush Administrations. I firmly believe that any comprehensive discussion of tax-reform must include proposals that move away from our current structure and thinking and adopt new ideas. My proposal for a Transaction Fee, which eliminates all federal income, payroll, capital gains and other taxes, reflects new thinking in tax-reform.

International and national attention has been given to this new thinking. In March, 2005, the former Financial Editor and Chief of Bureau of the Economic Times, India's largest selling daily, wrote an extensive article in The Telegraph newspaper of Calcutta, India discussing the merits of this Transaction Fee legislation. Governor Bill Richardson and Governor John Baldacci have expressed their strong support for the legislation as well. In his letter of support Governor Richardson stated, "This legislation is an innovative approach to tax reform—the Treasury Department must give this proposal its highest priority." In addition, the National Black Chamber of Commerce with 190 affiliate chapters and approximately 100,000 members has enthusiastically endorsed this legislation.

There is a national consensus that the Federal Tax Code is in need of reform. President Bush has recognized the complexity of the current system, stating that "The time that people spend complying with an overly complex tax code is a burden and a waste of resources." Since 1986, there have been 15,000 changes to the tax code, changes that have resulted in instability and unpredictability. These revisions force families to wade through overly vague tax laws in an effort to find narrowly crafted tax credits. Equally problematic is the tax code's burden on the middle class, which relieves the wealthiest individuals and corporations from almost any tax liability. In 2004, the GAO reported that more than 60% of all U.S. corporations paid no federal taxes between 1996 and 2000. Sadly, the lack of tax liability protects Americans in the highest income brackets, forcing the middle class to shoulder the greatest tax burden. Pulitzer Prize-winning author David Clay Johnston in his book, *Perfectly Legal*, illustrates this disparity, (i.e., Americans earning \$500,000 and above legally avoid paying taxes, while those earning \$50,000 and \$500,000 carry nearly the entire tax burden.) The Joint Committee on Taxation reported that last year over 2,000 of those individuals earning more than \$1 million dollars paid no federal taxes.

In the interest of fairness, balance and future economic prosperity, I advocate the Transform America Transaction Fee (Transaction Fee) proposal. The Transaction Fee is a *unique* concept in tax reform, dramatically simplifying our federal tax sys-

tem while providing a framework for revenue collection which coincides with the specific criteria set forth by the President's Advisory Panel on Federal Tax Reform. By targeting a tax base broader than any other proposal, the Transaction Fee will generate significant revenues; stimulate the economy especially small business, while simultaneously making the Federal Tax Code simpler and far more transparent. In short, the proposal dramatically reforms the federal tax system, while increasing the revenue potential to support a wide range of programs and initiatives, including federal deficit reduction.

Though the Transaction Fee is a simple construct, it is truly revolutionary in scope. By imposing fees on various transactions, the Transaction Fee eliminates the cumbersome federal tax structure on individuals and corporations. These transactions include the use of any payment instrument, (e.g., check, cash, credit card), by corporations and individuals. The Transaction Fee, however, would not apply to wages or to cash transactions of less than \$500. Moreover, CRS has done a legal analysis of the Transaction Fee and determined that it is constitutionally permissible.

The President's Tax Reform Panel's final report states that, "All else being equal, the broader the tax base, the more revenue a tax system will collect at a given rate." Compared to income tax, sales tax, or value added tax plans, and because of a far more expansive tax base, the Transaction Fee can achieve revenue neutrality at exponentially lower rates. To illustrate the point, the President's Tax Reform Panel's report included a Growth and Investment Plan which rates ranged from 15% to 30%; a modified VAT between 5% and 15% (which only generates 65% of total tax revenue); and a national retail sales tax rate of 22% to 34%. These rates target income, consumption, and hybrid tax bases totaling between \$4.5 and \$8.7 trillion dollars. Comparatively, the Congressional Research Service reports that the Transaction Fee, if levied on the transactions going through the Federal Reserve Bank system, "would be one of the most technically feasible options for implementation of a broad-based transaction fee." Further, the Transaction Fee could produce the same amount of revenue at a rate of about 0.4%. Annual Federal Reserve Bank system transactions amount to approximately \$750 trillion (See Figure 1). CRS estimates the taxable base of H.R. 1601 at \$73.4 trillion, when adjusted for avoidance and evasion, as well as the costs of new programs, (e.g. school funding and urban/rural development.)

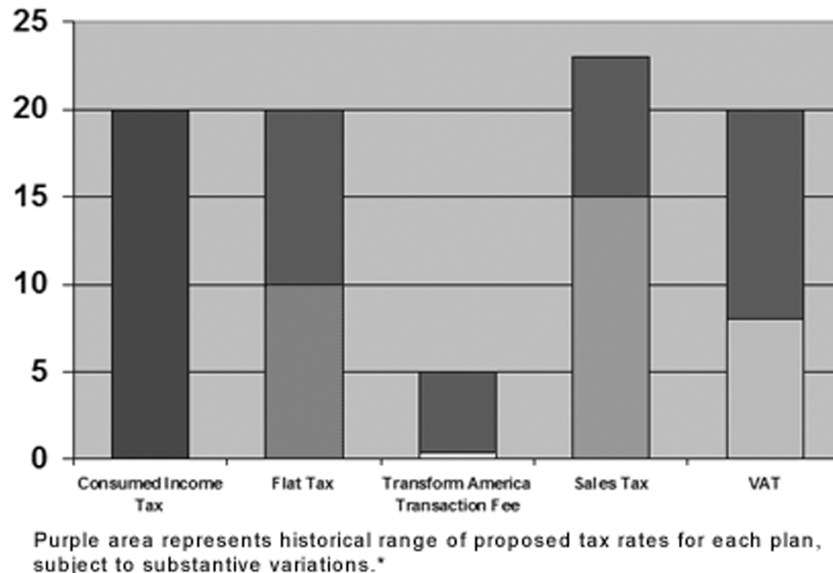


Figure 1.

The Transaction Fee is designed to be adjustable and flexible, similar to the Federal interest rate. As such, the Transaction Fee provides a range of options enabling

America to maintain economic stability and promote growth and investment, as opposed to patently maintaining specialized tax breaks that complicate an already labyrinthine tax code. For example, the Treasury Department can impose the Transaction Fee so that the rate can be adjusted to generate revenue in times of economic recession or prosperity without triggering the sort of volatility associated with raising taxes. The Transaction Fee also can target particular sectors of the economy under duress; and, at the same time, it can be structured progressively so that lower wage-earners will not be burdened unduly. Because there is a positive correlation between the size of most transactions and the level of personal income, an individual earning \$100,000 a year undoubtedly will have more fee-based transactions than an individual earning \$25,000 a year. Hence, the Transaction Fee could be set at a rate of \$5.00 for transactions valued at less than \$1,000, and \$50 per transaction for those valued between \$1,000 and \$10,000.

Finally, the Transaction Fee will stimulate the growth of small business by: 1) eliminating the costly burdens of complying with the current income tax system, 2) encouraging savings and investments, 3) reducing the burden of hiring employees and 4) making startup capital more readily available. Most importantly, the Transaction Fee's equitable implementation will eliminate disparities between small business and corporations in tax expenditures and the costs of compliance.

The United States, as the world's major economic superpower, *must* do better to implement a tax structure that is commensurate with its financial prowess and capability. Our tax system is a reflection of our fiscal priorities and objectives; and, a convoluted Federal Tax Code sends the message that our government has no clear vision of how to provide for America's general welfare. We have worked too long with narrowly constructed tax benefits and credits that do little to provide substantive change, while sending our tax code careening towards complete incomprehensibility. Congress cannot leave this legacy of complication and opacity to future generations. It is imperative that we return to the simple, yet fundamental purpose of the tax structure, viz: to provide revenue for the government to function.

Today, we are saddled with a staggering national debt and rising deficits that threaten our economic future, truly placing America at a fiscal policy crossroads. Without fundamental reforms, David Walker, GAO Comptroller General warns, "We could be doing nothing more than paying interest on federal debt in 2040." Morton Kondracke recently argued that Congress is "in a silent conspiracy to foist mountains of debt onto their children and grandchildren." H.R. 1601 is the only legislation that has the potential to restructure the tax system and provide a mechanism to eliminate the national debt. We have a unique opportunity to set forth a bold vision for America's future fiscal solvency. It is incumbent upon all of us to seize this moment and to create a tax code worthy of America's legacy and future prosperity.

Over the past 20 years, the Treasury Departments under Presidents Reagan and Bush have conducted detailed reports on many of the same tax reform proposals that are being proposed today. The tax proposals on the table clearly have merit, but they attempt to work within a system that has fatal flaws. H.R. 1601 is an innovative idea that provides the framework for a structure that will simplify federal tax laws, reduce the costs of compliance, equitably share tax burdens and benefits and promote economic growth. Though further analysis is required to more accurately assess the tradeoffs here, I believe my proposal merits a detailed assessment by the Department of the Treasury. Further I believe that the Transaction Fee will prove to be a model that substantially benefits all sectors of the national economy. In the words of Nehemiah, "We can rebuild the walls of the city, if we have a mind to work."

Chairman CAMP. Thank you very much for your testimony. Mr. Fossella.

STATEMENT OF THE HONORABLE VITO J. FOSSELLA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. FOSSELLA. Thank you very much, Mr. Chairman and my colleagues for your time, Mr. Larson, Ranking Member, and all Members of this Subcommittee. I appreciate the opportunity to testify about tax reform issues that are important to the people, not

only just the United States of America but especially the people of Staten Island and Brooklyn. While I am sure you have had ample time and opportunity to hear from the sitting Members of the Committee, I want to focus on two critically important tax deductions, the deduction for State and local taxes and the deduction for mortgage interest. Eliminating either or both of these deductions would amount to a massive tax hike of thousands of dollars a year on middle- and low-income Americans. For that reason alone, I cannot support any proposal that eliminates these deductions. I support tax reform efforts and am a strong proponent of enhancing incentives to encourage Americans to save and to invest, and I applaud the Committee's hard work in these areas. There is no benefit whatsoever to the people of New York to eliminate the deductions for State and local taxes and for mortgage interests. I would like to begin by speaking about the issue of State and local tax deductions. If this deduction is eliminated, New York would be the hardest hit State in the Nation, losing \$37 billion a year in Federal tax deductions, according to the IRS. New York City residents could expect to see IRS bills jump by 11 percent, or about \$3.4 billion a year, according to the New York City Independent Budget Office.

More to the point, roughly 3.2 million mostly middle- and low-income households in New York claim the deduction annually, where an average family savings is as much as \$5,600 a year. Indeed, it is a major factor in alleviating the high tax burden imposed at Federal, State and local levels. Furthermore, we are all familiar with the basic problem with the Tax Code. It is out of control. It is complex and long-winded. Americans now spend 6.42 billion hours on tax forms and recordkeeping, time that they could otherwise devote to their families, hobbies, working or whatever. Sadly, not even tax experts truly understand the Code. More times than not different preparers, including different IRS professionals, provide different answers to the exact same question. As a result, productivity is being lost on literally trillions of dollars of excessive tax liabilities, tax preparation costs and lost man-hours. The deduction for State and local taxes substantially eases this burden. The relief from State and local tax is of major importance. Speaking as a New Yorker, recovery from the twin economic punches of 9/11 and a brief recession was difficult enough, but fortunately the deduction provided some cushion. One of the bills that eases that tax burden is H.R. 703, which is the Alternative Minimum Tax Class Fairness Act of 2005. The bill would allow those who would still fall subject to the AMT to be able to deduct their State and local taxes from the AMT. Regular taxpayers who itemize on their returns can claim a deduction for State and local tax, including property tax and State income tax. However, these deductions are not allowed under the AMT. Moreover, residents in high-tax states like New York are increasingly finding themselves subject to the AMT. H.R. 703 is certainly a step in the right direction.

The deduction for mortgage interest is also vital to ensuring long-term economic growth. Roughly 37.2 million taxpayers claimed this deduction in 2002, writing off \$336.6 billion, or about \$9,000 per taxpayer. The deduction represented about 37 percent of itemized deductions and generated slightly more in deductions than itemized deductions for deductible State and local taxes and

twice as much in deductions as charitable donations. In addition, more than 60 percent of families who claim the deduction have household incomes between \$60,000 and \$200,000, according to the IRS, making it an important tax-saving tool for middle-income Americans. A recent analysis by the National Association of Realtors found that altering this reduction could lead to a drop in home prices of as much as 15 percent. Such a decline would endanger the strength of the housing market, which many analysts believe helped bolster the U.S. economy from a more serious and longer-lasting recession in 2002 and 2003. Currently, the only legislation supporting preserving the deduction is H. Con. Res. 272. While I strongly support this resolution, I believe we must work on a more substantive initiative to preserve this essential deduction. Toward that end, I have taken the lead in securing the support of 22 Members of the New York State delegation to oppose any proposal that would eliminate the deduction for mortgage interest. We conveyed our opinion in a letter to Secretary Snow this week. I have included this letter in my statement for the record.

All of the arguments against eliminating this deduction pale in comparison to the fact that owning one's home really is part of the American dream. We currently have the highest rate of ownership in our Nation's history. As a result, we are strengthening communities and giving Americans a greater stake in the future of their neighborhoods. The deductions for State and local taxes and for mortgage interest come as a savings grace to New York families that I represent. They help families have more of their hard-earned money and allow American people to decide how best to spend that money. Come April 15th, I know the Staten Island and Brooklyn residents, along with tens of millions of Americans, utilize these deductions to turn a check to the government into a check from the government. Once again, I thank you for the opportunity to testify and appreciate you taking all this into consideration. Thank you.

[The prepared statement of Mr. Fossella follows:]

**Statement of The Honorable Vito Fossella, a Representative in Congress
from the State of New York**

Chairman Camp and distinguished Members of the Ways and Means Committee,

Thank you for the opportunity to testify today about tax reform issues that are important the people of Staten Island and Brooklyn. While I'm sure you have had ample opportunity to hear from the sitting members on the committee, I want to focus on two critically-important tax deductions—the deduction for state and local tax and the deduction for mortgage interest.

Eliminating either or both of these deductions would amount to a massive tax hike of thousands of dollars a year on middle- and low-income Americans. For that reason alone, I cannot support any proposal that eliminates these deductions. While I support tax reform efforts and am a strong proponent of enhancing incentives to encourage Americans to save and invest—and I applaud the Committee's hard work in these areas—there is no benefit whatsoever to the people of New York to eliminate the deductions for state and local taxes and for mortgage interest.

I'd like to begin by speaking about the issue of state and local tax deductions. If this deduction is eliminated, New York would be the hardest hit state in the nation, losing \$37 billion a year in federal tax deductions, according to the Internal Revenue Service (IRS). New York City residents could expect to see their IRS bills jump by 11-percent, or about \$3.4 billion a year, according to the New York City Independent Budget Office.

More to the point, roughly 3.2 million mostly middle- and low-income households in New York claim the deduction annually, with an average family saving as much

as \$5,600 annually. Indeed, it is a major factor in alleviating the high tax burden imposed at the federal, state and local levels.

Furthermore, we are all familiar with the basic problem of the tax code: It is out of control. It is so complex and long-winded that Americans now spend 6.42 billion hours on tax forms and record-keeping—time they could otherwise devote to their families, hobbies or working a few more hours to boost their income. Sadly, not even tax experts truly understand the code. More times than not, different preparers, including different IRS professionals, provide different answers to the exact same question. As a result, productivity is being lost on literally trillions of dollars of excessive tax liabilities, tax preparation costs and lost man-hours.

The deduction for state and local taxes has substantially eased this burden. The relief from state and local taxes is of major importance. Speaking as a New Yorker, recovery from the twin economic punches of 9–11 and the recession was difficult enough, but fortunately the deduction provided some cushion.

One bill that eases the tax burden is H.R. 703, the AMT Middle Class Fairness Act of 2005. The bill would allow those who would still fall subject to the AMT to be able to deduct their state and local taxes from the AMT. Regular taxpayers who itemize on their returns can claim a deduction for state and local tax, including property tax and state income tax. However, these deductions are not allowed under the AMT. Moreover, residents of high-tax states like New York are increasingly finding themselves subject to the AMT. H.R. 703 is certainly a step in the right direction.

The deduction for mortgage interest is also vital to ensuring long-term economic growth. Roughly 37.2 million taxpayers claimed this deduction in 2002, writing off \$336.6 billion—or about \$9,000 per taxpayer, according to MSN Money. The deduction represented about 37% of itemized deductions and generated slightly more in deductions than itemized deductions for deductible state and local taxes and twice as much in deductions as charitable donations. In addition, more than 60% of families who claim the deduction have household incomes between \$60,000 and \$200,000, according to the IRS, making it an important tax-saving tool for many middle-income Americans.

A recent analysis by the National Association of Realtors found that altering this deduction could lead to a drop in home prices of as much as 15%. Such a decline would endanger the strength of the housing market, which many analysts believe helped bolster the U.S. economy from a more serious and longer-lasting recession in 2002 and 2003.

Currently, the only legislation supporting preserving the deduction is H.Con.Res.272. While I strongly support this resolution, I believe we must work on a more substantive initiative to preserve this essential deduction. Toward that end, I have taken the lead in securing the support of 22 Members of the New York State delegation to oppose any proposal that would eliminate the deduction for mortgage interest. We conveyed our opinion in a letter to Secretary Snow this week. I have included this letter in my statement for the record.

All the arguments against eliminating this deduction pale in comparison to the fact that owning one's own home really is part of the American dream. We currently have the highest rate of homeownership in our nation's history. As a result, we are strengthening communities and giving Americans a greater stake in the future of their neighborhoods.

The deductions for state and local taxes and for mortgage interest come as a saving grace to the New York families that I represent. They help families have more of their hard-earned money and allow the American people to decide how best to spend their money. Come April 15th, Staten Island and Brooklyn residents—along with tens of millions of Americans—utilize these deductions to turn a check *to* the government into a check *from* the government.

Reform of the tax code is a long-delayed project of critical importance to the economy. However, it will certainly not be an easy task, and I am glad to be a part of the debate. I applaud the Committee's work to date and I look forward to continuing to work with you in the week and months ahead.

Once again, thank you for this opportunity to testify.

Professor Patrick R. Colabella
St. John's University
Fundamental Tax Reform

The state of fundamental tax reform undertaken by the President's initiatives seems to have gone in a full circle. The President appointed a panel to look at the tax system and consider changes. The goal was to find a better method of taxing

ourselves, citing the income tax as obsolete and unfair. It is shameful that the panel's report rests on the recommendation to keep the current system but to simplify it. Candidly speaking this has been tried too many times before without success and I feel compelled to offer this committee, concepts on tax reform that the committee should consider that I believe are workable.

Resistance to change is just human nature. The more we get used to things, even bad things, the harder it is to change even when we know that that change is truly needed. Then, with trepidation, we eventually cross this painful threshold to the uncertain state readjustment and it is then we retrospectively peer back and wonder why we did not do it sooner.

One such place a change is needed is our tax system and by tax system, we mean the whole system of public finance, not just the income tax. But to their unwitting dismay, taxpayers are largely ignorant of the intrinsic nature of the taxation system and changing it, when we don't know much about it in the first place, makes it all that much more difficult, however not impossible.

A state of tax illiteracy pervades us. Why? In a free society, we are left to comply with tax laws we cannot even read let alone understand. This is not what our founding fathers envisioned after fighting the American Revolution against King George's punitive taxes. You remember the Boston Tea Party.

Consider this. During our entire pre-collegiate education we are taught virtually nothing about the U.S. tax system. We are routinely taught chemistry, Physics, Calculus, and similar not so easy subjects, but taxation is just not there. It is not that taxation is unimportant but it is just more likely that our educators cannot even teach the basics to our children because they themselves don't even know them. Furthermore, it is shocking that for nearly a century we lived under tax laws that capture more than fifty percent of our productivity throughout our lifetime and then even more upon our demise. While there are those, among us, who study the tax law, most know very little.

Many fellow Congressmen are similarly uncomfortable with taxation concepts. Often they vote on tax law changes along party lines and rely on educated staff and outside think tanks to get a fuller understanding of the tax law changes they vote on. Perhaps this is how things got so out of control and so unnecessarily complex. It seems too many theorists, economists, and special interest groups have cooked our tax law soup.

Politically speaking, changing a system that feeds the underlying power base of the whole system of government is a huge and politically dangerous undertaking. Elected officials are wary of such change and resolve that fundamental tax reform is all but impossible. It appears that the Presidents panel has similarly reached this conclusion.

Unfortunately, this sentiment pervades all of our psyches both inside as well as outside the government. To change it, we will need courageous legislators and a tidal wave of public support for this level of tax reform. The key is to focus on a system that is so dead on simple that we can all make that intrepid leap of faith.

Taxation systems tend to evolve by government. As commerce changes, governments recognize the opportunity to get access to a convenient taxation base; they justify it, and initially then they efficiently collect it. Then things usually go bad. Legislators regress and try to correct inequities that their constituents complain about but this never works and system deteriorates further.

Ask yourselves if the system has ever gotten simpler or fairer. The income tax was such a tax at one time when it was first formulated during the industrial revolution. It focused on the factory paycheck and bottom line industrial businesses as the taxable value base during the civil war. The population hated it then and they hate it now. However, the government had a tax epiphany on industrial commerce and was hell bent on taxing incomes. It was not until 1913 and a constitutional amendment to make income tax legal.

Prior to income tax, the focus on where government collected taxes was at the points of commerce, the markets, and shipping docks. The income tax amendment affixed a yoke around our necks, in a tax that our ancestors intentionally legislated against in our constitution. Initially, it was a good idea but today it is no longer efficient. We are brainwashed! None of us have taken a breath without our incomes being taxed and most of us cannot even comprehend any other type of tax other than income tax.

If we let our minds go, just a little, we can fixate on a new system. It's not that hard. This new system has to painlessly transit from the current system, in stages, with confidence from all interested factions. At the end of the day we have to remove the yoke of billions of hours of tax compliance and the end result is more energy devoted to making out lives better.

Thinking out of the box—The Withdrawals tax concept

With all the technology we now have, it is strange that we have yet not found a way of using that technology to make tax determination simple and collection more efficient. In our research, we asked one basic question. What is the most efficient type of tax? Simply stated, it is a toll. It pays for a need supplied buy government and those who are using the system pay for it. Today we routinely and unknowingly abdicate much in our lives to computerized automation and think nothing of it; the *Easy Pass* toll collection system is one such niche.

I believe that automation of tax collection and later tax determination could be the real end of the old tax system and it along these lines that I would like to introduce the committee to a concept of taxation developed by some professors at St. John's University.

Withdrawals tax concept

Withdrawals tax (WTX) concept is based on a single flat tax that is progressively applied on an automated basis to bank withdrawals, usages of cash and/or their equivalent. The tax will be collected electronically from taxpayers' bank accounts by an EFT system that will be linked to all financial intermediaries. It will apply to individuals and businesses alike.

The WTX does not tax all monetary transactions. It does not tax bank credits or deposits and it does not tax uses of funds from financing like borrowing activities, credit cards and inter-bank transfers are essentially tax-free rollovers. Withdrawals would not be able to be made unless there are enough funds available to pay the related tax. Therefore, a \$100 withdrawal would result in an overall \$105 deduction from a taxpayer's account with \$5 being directly transferred to the government's account. If there were only \$100 in the account, the taxpayer would be able to withdraw only \$95.24.

By levying a tax only the withdrawal aspect of cash flow, a simultaneously tax on income is accomplished through consumption, and transfers of wealth. The lag in tax collection for individuals allows for their wealth to accumulate faster. This is something our economists want us to do. I believe that combining the taxation of these elements in the proper application of the system will result in an infinitely simpler, less cost compliant and a more visible system of tax.

The WTX concept can be applied so as to tax only certain payments. Income source reporting then becomes unnecessary. You cannot spend it unless it came from somewhere. Illegal resources would be very difficult to hide. The objective is to tax everybody and not just those who stay in lane and pay the toll. A simple, fair, and technologically sound method is not only possible but also inevitable.

The WTX system cannot be thoroughly explained in a few short paragraphs and on its face it looks too radical, too simple, and it is. (A full paper on the system is available through my office) Economists generally have difficulty with simple solutions, so for now we should hold this onto this WTX concept and only go half way towards implementing it.

By this I mean that we should continue to determine our tax the way we have been and file tax returns in the short term. However, once the collection concept takes hold the need to determination of the income tax will naturally be supplanted by the withdrawals tax system in full form. For now the Committee should consider a first practical move toward automating taxation.

First practical move

I don't think the government's school of thought nor the general population can handle such a radical shift in tax system but I do believe that by merely automating the way we tax collect taxes will eventually lead us into a simpler overall taxation system.

Public finance today is much like problems faced by toll collectors and perhaps the same evolution of technology can be a guide in overhauling the whole public finance system. It has taken decades to enhance the process of toll collection. For years, the primary means of collecting a toll on a bridge was to construct costly toll booths in dangerous and more costly maintained toll plazas, staffing them with highly paid public employees getting huge salaries and pensions, overtime checks and the like. Then there was the problem of paper receipts, punch cards and the whole agony of counting and packaging coinage, let alone the accounting for each booth day-by-day and hour-by-hour. Overall, a real nightmare that rips into the economics of the purpose of the toll itself.

The old toll system is like our current tax system. This is the sum total of the problem. When you step back from the arcane process, the toll collectors are metaphorically the IRS and every State tax system that piggybacks off the Federal system; not to mention the elaborate sales tax and property tax collection systems that

run redundantly state after state and city by city. It is only of late that technology been used to begin to ease some of the painful burden of collecting some of the government's revenue but the stark reality is that tax collection at every level of government is still clogged like a toll plaza mess. Taxation can be distilled into an easy pass system. Sounds too easy? Looks ridiculous? Are you afraid of the technology? Are you afraid the government is going to pluck money out of you bank account? They already do!

"Easy Pass" uses bar codes, scanners and electronic funds transfer, this is more efficient. Unfortunately, we still have toll plazas but they will someday be extinct and so will be the tax code. Today many people will not drive anywhere without their "Easy Pass." This is ironic because it was extremely difficult convincing motorists that easy pass would work and work well. In fact, some people think it works too well and the parallels to basic government continue to be very apparent here. Similar technology can save us from the toll taker like tax lines of income and sales taxes; these are obsolete as toll plazas and dinosaurs.

Consider what goes away, the overall cost of collecting a tax, not determining the tax, but just the collection. For now this cost is enormous and much larger than most of us can fathom. The scope is so ominous that it is often over looked as a real issue in tax reform, especially by theorists. It is like we put our heads in the sand and ignore it. To put it all in perspective, you have to quantify the following:

- The IRS budget, already quantified
- The tax administration budget of each State in the union
- The court costs associated with all the tax courts from the U.S. Supreme court level down to all State courts as well
- The cost to each U.S. business in keeping compliance records for tax purposes
- The cost of tax compliance in probating estates
- The cost of the forcible collection of taxes by seizing assets

No one has attempted to even estimate **all** of these dreaded costs of public finance and we certainly have not extended the scope of these elements to include the intangible cost of our own **human capital** expended in complying with the all the tax law. This latter element has been estimated at 6.4 billion hours annually. What a waste! Our tax system also includes the entire network of public finance in layers of government and the system is just clogged like an old toll plaza, grossly inefficient and unnecessarily costly. The only difference is that there is no "easy pass" on the horizon to cure the ill, or is it there?

Automating the collection process

If we merely **paid** our tax from our bank accounts automatically, the system can be made to operate like easy pass. Eventually, we can fairly determine the amount to be paid. It would work like this. All payroll withholding will cease except for social security and Medicare payments but we can automate that too. All payrolls would have to be made by means of check or electronic funds transfer. Paying someone compensatory cash for any reason would be legally restricted and accepting cash for compensation would be restricted as well.

Purchases should be made with a refillable cash card much like a mass transit metro card that you get from your bank or any ATM. You can get this in place of cash if you wished. A requiring of certain merchant collection procedures would insure circulation of cash through the banking system. As withdrawals are made from the system a fixed amount, say **five percent** would be credited for the government's account by debiting your account. You could watch it accumulate. This is very transparent. Ultimately, these amounts would be used as a credit against taxes when you file your tax returns, at least for now, and all levels of government can participate in the collection device.

It is not surprising that it took years for the IRS to be able to access database files as quickly as private sector industries and the upgrade for this database retrofit cost the taxpayers billions. Electronic filing and EFT are still in the baby stages. However, there is a failure to see the forest from the trees. It is like film versus digital imaging. Ultimately, film will be obsolete. I suspect this is the case with our system of public finance.

Many people think there is no other way to collect taxes than through intrusive schemes and the overt intimidation of the IRS. We all know the system is truly horrible but no matter what we say, we dare not change it. Why? None of us can recall a breath taken in life without the conceptual cloud of taxation of income as the only viable means of taxation. The truth is that, given the technology of the day, we can design more efficient public finance system. Automating tax collections is just the start. We will leave you to brainstorm the efficiency of this and how easy it would be to get the free riders to pay taxes that you are really paying.

Eventually, government and all of us will see that there is no need to have taxation systems that invade our everyday lives like the income tax, sales tax and estate tax. Then a full WTX system can take hold. However, we cannot cut the umbilical cord of these taxes just yet. For now let's just collect just income taxes this way in the short run. Later, filing a tax return will soon be unnecessary. We can let that process drift into toll plaza obsolescence.

Government supplies many needs and we all should pay for them. Those who use and benefit most by the democratic paradigms of government should likewise pay more but all should pay at least some. In our current system many do not pay taxes. More than the government would like to admit. It is those who do not pay taxes, either by legislative design or by just evading it, that cause serious equity problems, rich or poor. Essentially, those who are paying are paying more for those who do not pay, disproportionately more.

Many view progressivism as sacrosanct and social engineering an acceptable role for our tax system but we do not accept either notion as mandatory tenets of taxation. We will agree that some degree of positive progressivism in the system is needed but not as a political ploy. In other words, if we give a tax break to the poor we want to be certain that they are poor and that the tax break really gets to them. Transparency is of utmost importance.

I believe that automating the collection process will eliminate virtually all tax reporting, computation and compliance as well as the confrontations that readily persist between government and the taxpayer.

However automation evolves, the tax system that develops is expected to be implemented as revenue neutral and provide enough revenue for both the federal and state governments. Implementation of the tax is expected to result in a huge reduction in compliance costs in both the public and private sector that will ideally go to increase capital production, reduce overall taxation and result in substantial economic growth.

November 9, 2005

The Honorable John Snow
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Secretary Snow:

The President's Advisory Panel on Federal Tax Reform developed many ideas for reform of the tax code; a much needed project of critical importance to the economy. However we, the members of the New York State Congressional Delegation, must voice our opposition to two findings made by the panel—the elimination of the deduction for state and local taxes and the elimination of the mortgage deduction. Come tax time, our constituents depend on these deductions to turn a check *to* the government into a check *from* the government.

The deduction for state and local tax has existed since the implementation of the federal income tax in 1913. In 2003 this deduction was exercised by nearly 36 million U.S. taxpayers and more than 3 million people from New York State. Therefore we must be opposed to any suggestion that the deduction for state and local taxes should be eliminated. It is a major factor in alleviating the crushing tax burden that is imposed at the federal as well as the state and local levels. The amounts claimed from this deduction are similarly impressive: again in 2003, over \$183 billion (and over \$24 billion by New Yorkers) was saved by the exercise of this provision. This deduction acts as a crucial point of balance as the income tax rates were steadily hiked throughout the twentieth century and should be preserved.

Secondly, it is a terrible mistake to consider any proposal that would eliminate or gut the mortgage deduction. Such a move would have twin consequences, each of which could potentially slow our economy. Eliminating the deduction would be, all by itself, a tax hike of enormous proportions—it is estimated at \$434 billion dollars over the next five years.

This leads into the second major consequence, a sucker-punch to the housing market. As the national economy recovered in 2002 and 2003, many analysts believe it was the upswing in the real estate market which saved our economy from a more serious and longer-lasting recession. Suddenly pouring cold water on the ability of potential first time homebuyers to own a home could have devastating effects to the economy at large. Owning one's own home is a part of the American dream, and damaging that ability is simply a nonstarter. We currently have the highest rate

of homeownership (68.1%) in our nation's history. This is an achievement we must preserve and build upon.

We urge you to reject any recommendation by the Panel that would eliminate or even cut the deductions for mortgage interest and for state and local taxes. These deductions come as a saving grace to the families of New Yorkers that we represent. Come April 15th, keeping these provisions ensure they can receive, and not have to send, a check from the federal government.

Sincerely,

Vito Fossella
Member of Congress
 Brian Higgins
Member of Congress
 Joseph Crowley
Member of Congress
 Carolyn McCarthy
Member of Congress
 Peter King
Member of Congress
 John Sweeney
Member of Congress
 John McHugh
Member of Congress
 Gregory Meeks
Member of Congress
 Louise Slaughter
Member of Congress
 Elliot Engel
Member of Congress
 Tim Bishop
Member of Congress
 Michael McNulty
Member of Congress
 James Walsh
Member of Congress
 Sue Kelly
Member of Congress
 Carolyn Maloney
Member of Congress
 Sherwood Boehlert
Member of Congress
 Gary Ackerman
Member of Congress
 Randy Kuhl
Member of Congress
 Steve Israel
Member of Congress
 Anthony Weiner
Member of Congress
 Maurice Hinchey
Member of Congress
 Edolphus Towns
Member of Congress
 Nita Lowey
Member of Congress
 Nydia Velazquez
Member of Congress
 Jerrold Nadler
Member of Congress

Chairman CAMP. Thank you very much. Mr. Baird.

STATEMENT OF THE HONORABLE BRIAN BAIRD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. BAIRD. I thank the Chair and the Members of the Committee. It is a privilege to be here today to speak about a bill that is really about fundamental fairness. It has been co-sponsored by my dear friend, Kevin Brady, the prime author and distinguished Member of this Committee. Mr. Foley and others have also been part of this bill. Essentially, what we are talking about is maintaining a bill or maintaining a provision in the Tax Code that we were able to enjoy last year and this year but would otherwise expire. In the interest of time, I will abbreviate my comments fairly quickly. What we are talking about is maintaining the ability of States with sales taxes to preserve their right to deduct those sales taxes from their Federal income tax. Now people who are in States that have income taxes have been long been able to enjoy that. The other States, the seven who have only sales taxes, lost that privilege in 1986. Happily, we have regained it last year. It applies this year as well, but, unfortunately, it would expire this year. It is my understanding that the reconciliation package includes a 1-year extension, but, frankly, it is very difficult to make long-term plans. We would encourage this Committee to support the provisions in H.R. 519, make sales tax deductability a permanent feature of the Tax Code, and establish fairness for those residents in sales tax States. I would underscore that this in no way adversely affects the residents who are in States with income tax, as they can still deduct their income tax. The bill simply allows one to choose between deducting sales tax or income tax on your Federal return.

[The prepared statement of Mr. Baird follows:]

Statement of The Honorable Brian Baird, a Representative in Congress from the State of Washington

I appreciate the opportunity to appear here today in front of the Select Revenue Measures Subcommittee to discuss H.R. 519, the *Sales Tax Deduction Permanency Act*. Representative Kevin Brady, a distinguished Member of the Ways & Means Committee, and I introduced this legislation in February. The legislation now boasts 73 bipartisan sponsors.

As you are aware, prior to last year, the tax code treated taxpayers in some states more favorably than those in other states. Individuals living in states that tax income could deduct their state income tax from their federal tax bill. However, those living in states—such as my home state of Washington—that do not have an income tax and rely instead on a sales tax could not deduct their state taxes. They ended up paying significantly more to the federal government than a taxpayer with an identical profile in a different state.

A state sales tax deduction was included in our tax laws prior to 1986. I am sure that the repeal of the sales tax deduction in the mid-1980's was well-intentioned. However, its repeal resulted in a significant disparity between states, a disparity which was profoundly unfair.

To remedy the problem, I worked with Representative Kevin Brady and other Members from sales tax states to restore equity to our tax code by reinstating the sales tax deduction. After years of work, we were finally successful in restoring the deduction in the *American Jobs Creation Act* that passed last year. Those living in states that have an income tax are still able to take an income tax deduction as they have in the past. However, now residents of states that do not use an income tax are provided with the opportunity to take a similar deduction. Restoring the sales tax deduction has provided a great benefit to my constituents, saving Washington State residents approximately \$500 million per year. These tax savings have

meant a boost to the Washington State economy and state economies throughout the country.

Unfortunately, the sales tax deduction that was reinstated last year applied only to the 2004 and 2005 tax years. Under current law, after December 31, 2005, the sales tax deduction will be unavailable to residents in Washington State and the six other states without a state income tax.

That is why Representative Kevin Brady and I introduced H.R. 519, the *Permanent Sales Tax Deduction Act*. This legislation will make the sales tax deduction permanent.

As the Ways & Means Committee and the Select Revenue Measures Subcommittee consider tax proposals, I strongly believe that the issue of tax fairness must be one of its top priorities. Allowing the state sales tax deduction to expire will have a significant impact on taxpayers throughout the country. Residents of my state and other states rightfully expect that they will continue to be treated equally under the law by the federal government, regardless of the local tax system elected by their state.

We frequently hear about the importance of certainty and predictability in our tax code. It is important for taxpayers to know whether a tax deduction or incentive will continue to be available so that they can make important day-to-day decisions. This certainly applies to the sales tax deduction. Residents in sales tax states are asking themselves whether they should buy a car now, or wait until next year; whether they will be able to use their tax savings to send a child to college in the next few years; and whether they will be able to still afford the down payment on a house as they had planned.

A year-to-year extension of the sales tax deduction—such as that proposed in the Senate Finance Committee's Budget Reconciliation proposal—is a significant first step. However, I would strongly urge the Ways & Means Committee and the taxwriters on the other side of the Capitol to consider enacting H.R. 519 and making the sales tax deduction permanent.

The *Permanent Sales Tax Deduction Act* and the necessary extension of the state sales tax deduction affects millions and millions of taxpayers in seven states—Washington, Florida, Texas, Nevada, Tennessee, South Dakota, and Wyoming. These seven states are represented by 80 Members of Congress, or nearly 20% of all Members of the House of Representatives.

As of today, the *Permanent Sales Tax Deduction Act* has received wide bipartisan support in Congress. The sales tax deduction has also received the support of countless individuals and organizations throughout the country, including the National Conference of State Legislators and the Governors from each of the sales tax states.

I ask you to maintain fairness in the tax code by supporting H.R. 519, the *Permanent Sales Tax Deduction Act*. I would be happy to answer any questions or provide any additional information on this proposal to the Subcommittee and thank you for the opportunity to testify.

Chairman CAMP. All right. Thank you. Mr. Simmons.

STATEMENT OF THE HONORABLE ROB SIMMONS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. SIMMONS. I thank you, Mr. Chairman, very much. Because the buzzer went off and because you have my statement, I will summarize. I am here to speak in favor of legislation that I have introduced previously with Mr. Van Hollen of Maryland, which simply ensures that the collection of taxes will continue to be done by the IRS. As you may recall, there was a policy change by the IRS contained in the FSC-ETI legislation that allows the IRS to contract out Federal income tax collections. I believe that this is a threat to taxpayers' rights and to their privacy. This system has been tested previously. In 1996, Congress had a 2-year pilot program which showed there was no savings, and people did not like the way the program worked. I suspect that when our constituents find that tax collection can be contracted out even to companies

that are not American-based or American-staffed, they are going to be pretty upset. Outsourcing of this kind of activity I think is a huge mistake, and I hope the Subcommittee would consider changing this. In July of this year, I discovered that one of my telephone bills carried a \$2,500 excess, an overpayment of \$2,500 on my telephone bill. Well, being an honest guy, I felt I should fix it and not allow that excess to remain there. I didn't know who paid it. It took me a total of 4 months dealing the outsource 800 number, 4 months to finally just this week get an explanation for what had gone wrong; and what they had done is taken a check from another account and put it in my account. If it takes 4 months for us to work with an outsourcing system to clarify an overpayment, what happens to the taxpayer when the collection agent thinks that they have underpaid? I think it is a terrible, terrible idea when it comes to IRS collection. Quite frankly, Mr. Chairman, I think outsourcing sucks; and I thank you for your consideration.

[The prepared statement of Mr. Simmons follows:]

**Statement of The Honorable Rob Simmons, a Representative in Congress
from the State of Connecticut**

Mr. Chairman, thank you for the opportunity to testify before your committee today.

I come before you today to speak about a very straightforward piece of legislation that I have introduced with my colleague Mr. Van Hollen of Maryland. It simply ensures that the collection of taxes will continue to be done by the IRS.

H.R. 1621 seeks to reverse an ill-conceived policy change by the Internal Revenue Service (IRS) that was contained in last year's FSC-ETI legislation. Contained in the complex international tax bill was a provision allowing the IRS to "contract out" federal income tax collections.

Mr. Chairman, all of us want a system that efficiently collects federal taxes, but we cannot do it at the expense of taxpayers' rights or privacy. If the IRS continues to go forward with this outsourcing, millions of taxpayer files will be made available to private debt collection companies who will "contact" taxpayers and collect up to a 25 percent fee from such collections.

This type of incentive system on the part of the collectors is ripe for abuse and harassment. It is why the IRS specifically prohibits its employees from being assigned quotas with regard to collection activities. It should come as no surprise that the private debt collection industry receives the greatest number of formal complaints as recorded by the Federal Trade Commission than any other business in the nation.

Past experience should also guide us in consideration of this initiative. In 1996, Congress approved a two year pilot program for just such a collection scheme. Not only were there multiple violations of the Fair Debt Collection Practices Act by the private collection companies, but sensitive taxpayer data was not properly protected. After 12 months, the pilot program had cost the U.S. Treasury \$17 million and Congress saw fit to cancel the remaining 12 month pilot.

Each year millions of Americans voluntarily disclose personal, sensitive information to the IRS with the expectation that it will be handled with the utmost discretion and protected from erroneous or deliberate disclosure outside of the IRS. Yet the IRS is now *leading* the effort to disclose this information to third party contractors who have demonstrated previously that they cannot adequately protect taxpayer information.

If the above facts do not cause you concern, imagine the response of your constituents when they learn that these contractors are not required to be American-based or staffed. Under the provision allowing this practice, foreign companies employing non-U.S. citizens can bid for this work. When American taxpayers understand that their personal information could potentially be put in the hands of foreign workers toiling in "boiler room" operations in foreign countries, they will rightly ask who supported such a risky and short-sighted scheme.

As somebody who has personally encountered the misery of dealing with such an outsourced operation on a different matter, I can assure my colleagues that you will encounter some mighty unhappy constituents if they find their personal tax information in the hands of a third party overseas. Keep in mind, also, that the most

susceptible individuals will be our home-bound seniors and busy single mothers who may have overlooked some aspect of their tax filing. Do we really want to sic commission-hungry tax collection agents on these individuals?

Mr. Chairman, at a time when we see near-daily stories of widespread identity theft on the front pages of the newspaper this body should not be in the business of putting more sensitive information in the hands of dubious contractors.

In closing, I would like to add that when the issue of taxpayer protection was addressed during the consideration of the FY 2005 Transportation-Treasury appropriations bill, the House went on record in opposition to this significant policy change by adopting, by voice vote, an amendment offered by Rep. Capito and me that prohibited the Department of Treasury from implementing the program in FY 2005.

Although the appropriations bill was passed by the House, it was not approved in the Senate and the Capito-Simmons amendment barring any funding for this practice of outsourcing tax collection was not incorporated into the omnibus appropriations bill.

In addition, Mr. Van Hollen and myself attempted to offer a similar amendment in the FY 2006 Transportation-Treasury appropriations bill, however, it was not made in order under the rules.

Mr. Chairman, I urge your committee to consider this legislation. With 26 million Americans finding themselves victims of identity theft over the past 15 years, furnishing more taxpayer data to dubious third-parties will only increase the risk of wrongful disclosure of such data. Let's keep the IRS in charge of tax collection and not jeopardize any more personal data.

Chairman CAMP. All right. Thank you for those cogent comments. Mr. Conaway.

STATEMENT OF THE HONORABLE MICHAEL K. CONAWAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. CONAWAY. Is that an official congressional word? Thank you for allowing this testimony. Most of my written testimony had to do with items that the Committee has taken care of in the reconciliation bill—I thank you for that—extending deadlines that are expiring on a lot of important provisions. I want to spend a couple of minutes on two things. One is the fundamental tax reform that gets talked about. I think we can find or craft an easier, fairer, more straightforward way to collect the minimum amount of money needed to fund this Federal government. I know my colleague from Georgia has got a bill that I am a co-sponsor on. I am not in favor of a flat tax. As a CPA, I spent 30 years dealing with the Income Tax Code, helping clients deal with it. I am not in favor of a flat tax because it leaves in place all of the mechanisms that allow us to get back to where we are today. If you look at the 1986 Act, we dramatically moved toward a flat tax. Some 19 years later, we are just as complex today as we were before we did that simplification act in 1986. The flat tax leaves that process. So, I would encourage you, to the extent that you have a decision in that, that we start this debate next year on fundamental tax reform to find a better way to do it. It sounds odd coming from a CPA, but, quite frankly, I get very little push-back from my colleagues when I talk about doing away with the Internal Revenue Code and the Internal Revenue Service as the sales tax dealer do.

Final point is, we spend, I believe, an inordinate amount of time with projections as to what tax policy does and does not do. Those projections are inherently imprecise. I know the Joint Committee does a good job and everybody does a great job of trying to figure those projections out, but if you provided projections like that over

that length of time in an S-1 filing or an SEC filing, it would be covered with, “these are forward-looking statements”, “they may or not happen”, all of those kinds of things. So, I will ask the Committee to focus more on the tax policy itself, get the policy right and let the results take care of themselves. As an example, in January, our best estimate for this government was \$2.45 trillion. At the end of October, the actual Federal revenues for this year were \$2.145 trillion, some \$97 billion more than Federal revenues collected this year than our best guess was only 10 months ago. So, as we look at tax policy, let’s get the policy right and spend less time being concerned about the guesses as to what that policy might drive over a 1, 2, 3, 5, 10 year period. Because I don’t believe they are as precise as a 90.0 or 70.0 number would lead us to believe. So, with that, thank you for the opportunity to testify.

[The prepared statement of Mr. Conaway follows:]

**Statement of The Honorable Michael K. Conaway, a Representative in
Congress from the State of Texas**

Mr. Chairman and distinguished Members of the Committee, it is an honor and a privilege to testify before you today about an issue I’ve spent my career working on: Taxes.

I would like to commend the members of this committee on the work you have already done and convey my appreciation for the hard work and difficult decisions you will face in the coming weeks and months.

As a CPA and small business owner, I have spent many long hours dredging through our complicated, convoluted, and inefficient tax code. The number of pages of federal tax rules has increased by over 48 percent in the last ten years. That equates to 60,044 more pages in 2004, than 1994. I believe there is an inverse correlation between the growth of the federal tax regulations and the growth of economic efficiencies in the code.

The inefficiencies and complexities of the tax code create a number of fundamental problems that must be addressed. These problems can be traced to the tens of thousands of pages of tax code and the culture of confusion and inequity our tax code has created over the years.

Our nation’s laws are based on voluntary compliance. The more complicated our tax system has become, the greater the incidences of noncompliance. While there are clearly bad actors that intentionally skirt and bend the rules to avoid their legal tax liability, the complexities that are inherent in our system lead to many taxpayers paying the wrong amount of taxes out of confusion, rather than malice. It is easy to see how most Americans would be confused about what portion of their income is taxable and what tax breaks are allowed. Additionally, the complexities built into the tax system over the years have fostered a culture of aggressive tax planning. Since tax rules are subject to countless interpretations, they encourage taxpayers to take risks, hoping that their tax-cutting strategies are not illegal, and if they are, they will not get caught by the IRS. The correlation between aggressive tax planning and tax complexity has become abundantly clear in recent years and has been further highlighted by the recent high profile corporate tax avoidance schemes. As a CPA, I can honestly say, the most effective and efficient tax system is one where the average taxpayer doesn’t need an accountant to file his or her return.

As a Republican, I’m a firm believer in the inherent efficiency of the market and the need to let the market operate without unnecessary government regulation. I come from the school of thought that believes less government and an easing of burdensome regulations, will create greater efficiencies and our economy will be better off. Our current tax code is the best example of the opposite of this “hands-off” philosophy. Current tax regulations impose unnecessarily high and burdensome administrative and compliance costs; not only for government, but also for individual taxpayers and businesses. As a nation, we waste over 6.5 billion hours every year filling out tax forms, keeping records, and learning new tax rules. For individuals, that can be time better spent with family and loved ones. For our nation’s businesses, the time spent on tax compliance is coming right off of the bottom line. The cost of complying with federal income taxes is roughly \$200 billion annually.

One of the principal tenants of American government and society is equal treatment under the law. This principal is clearly stated in the constitution and is an important lesson we try to instill in our children and grandchildren. However, equal treatment under the law has been circumvented when it comes to tax law. I urge this Committee to keep 'equal treatment under the law,' in mind as we begin the arduous task of tax reform. I believe members of this committee will agree that under the current system, individuals are treated unequally. As a result of the many exemptions, deductions, and credits that have been built into the tax code over the years, we have created inequality and powerful constituencies that will fight to maintain their preferred exemption, deduction or credit. There are a myriad of examples of these constituencies and this inequality. Congress' reforms should create a tax system that is simple, transparent and provides equal opportunities to all Americans.

I believe we can craft a tax collection scheme that is fairer, more straight forward and easier to comply with than the current system. This new scheme should collect the minimum amount of money needed to fund the federal budget.

In that regard, I am a cosponsor of legislation that can replace our current tax system with a national sales tax. I believe H.R. 25, the Fair Tax, is the type of comprehensive tax reform we need to bring simplicity and fairness back into our tax collection scheme. A consumption based national sales tax would eliminate most of the burdensome complexities found in our current tax structure. I believe the benefits of replacing income taxes with a national sales tax far outweigh the negatives. This type of tax system would prove to be a major catalyst for economic growth by eliminating the bias against saving and the constraints on business investment that are inherent to the income based tax system. A national sales tax would be simpler and more equitable than the income tax and the compliance costs are only a fraction of what we currently face. But, perhaps the greatest benefit of replacing our convoluted tax system with the Fair Tax is that the federal tax burden would be completely visible and transparent to all.

However, before Congress begins the arduous process of comprehensive tax reform, it is important to extend the expiring pro-growth, pro-job creation provisions from the 2001, 2003, and 2004 tax bills. The Economic Growth and Tax Relief Reconciliation Act of 2001 reduced marginal income tax rates, provided marriage tax penalty relief, provided temporary relief from the alternative minimum tax (AMT), and increased the child tax credit. The Jobs and Growth Tax Reconciliation Act of 2003 provided for reducing the tax rate on capital gains and dividends. The Working Family Tax Relief Act of 2004 extended many of the tax provisions scheduled to expire at the end of 2004. All of these tax provisions were important to the economic growth we've experienced in the past years. Since these tax provisions expire at some point in the future, we will have to face the issue of whether to extend and/or make the current provisions permanent. But regardless of what action or inaction Congress takes with regard to these extensions, I think we can all agree that the economic impact has been positive.

Specifically, I want to champion the provisions that allow the deductibility of sales taxes in lieu of state income taxes. Not renewing this deduction before 2006, would amount to a tax increase for taxpayers in states that do not have income taxes, such as Texas. The American Jobs Creation Act of 2004, reinstated the deduction of sales tax in lieu of income taxes. Before the sales tax deduction was eliminated by the Tax Reform Act of 1986, taxpayers could deduct sales taxes in addition to income tax. While I do not advocate returning to sales tax deductions "in addition," I believe strongly that the deduction "in lieu" should be maintained. Taxpayers may choose to report actual sales tax paid, with verified receipts from purchases, or deduct an estimated amount by using tables provided by the IRS. As you know, there are a number of pieces of legislation pending before the 109th Congress that would make permanent the sales tax deduction. Not extending this provision would be, in effect be a tax increase for taxpayers in my home state of Texas. If we allow the sales tax deduction to expire at the end of this year, we will have to defend what is in effect a \$1.5 to \$3 billion dollar a year tax increase.

Another important stop gap measure Congress must make prior to enactment of comprehensive reform is the repeal of the alternative minimum tax (AMT). Millions of Americans will soon discover that, the AMT is a complex income tax that operates in conjunction with the ordinary income tax and requires many taxpayers to calculate their taxes two different ways. The AMT serves no economic purpose and its repeal has been recommended by tax and economic experts along the entire ideological spectrum. Since the AMT has not been indexed to inflation, it is about to unintentionally hit millions of additional taxpayers. Estimates show the number of taxpayers subject to the AMT will reach 35 million by 2010. The original purpose of the AMT was to prevent individuals from gaming the system and taking "too many"

tax breaks. A full repeal of the AMT is preferred, however extending the current indexing “fix” until comprehensive tax reform can be addressed is an acceptable alternative.

In closing, I would like to reiterate my support for a comprehensive overhaul of our current tax collection scheme to bring clarity, transparency and fairness to the system.

But in the meantime, I think it is important to extend the tax provisions from the 2001, 2003, and 2004 tax acts that are set to expire between now and 2011.

I thank the Committee for its time and I look forward to working with you in the weeks and months ahead to find a working solution to reforming our tax system.

Chairman CAMP. Thank you very much. Thank you all for your comments and your testimony. We have a couple of minutes. I thought we would do a few questions, and then we will suspend. There are three votes in this series, and if any of you would like to come back for further questions, we can continue questioning after that. But we have time for a couple.

Mr. LARSON. Mr. Chair, could I inquire? Because I do have some specific questions that I wanted to ask a couple of the Members, but knowing that they also have schedules, are the Members going to be able to make it back?

Mr. FATTAH. Mr. Chairman, I am prepared to come back.

Chairman CAMP. I just wanted to say, Mr. Fattah, I appreciate your approach on this fundamental tax reform; and I will continue to work with you and Joint Tax to try to get this. This is taking them some time to get them the full estimate, but I want to continue to work with you. So, with that, if there are any Members that have particular questions now, Mr. Larson, you may inquire.

Mr. LARSON. Well, in fact, I have a series of questions that I would like to ask, starting with Mr. Fattah. I just don't know if we will have enough time to get them off. So, if the Chair—if we are going to come back, I will save that time to come back and ask Mr. Fattah. If the other Members are going to come back, I will at that time ask them. So, we can do it, if that is okay with the Chair.

Chairman CAMP. That would be fine. Then, Mr. Weller, would you like to inquire?

Mr. WELLER. I will pass.

Chairman CAMP. Ms. Tubbs Jones, any questions of this panel?

Ms. TUBBS JONES. No, sir. Thank you.

Chairman CAMP. Mr. Foley.

Mr. FOLEY. I just want to commend all of the panel. I think you have got some very creative ideas. We may want to redact your last statement from the record, Mr. Simmons. So, with unanimous consent, we will remove that adjective from our record. But, in all sincerity, I think Mr. Fattah's is a very creative approach, much like Mr. Linder's, who I enjoy, looking at a way to really bring about a resolution to the complicated Tax Code. There has got to be a better system, and you have enumerated, and I appreciate that. Mr. Fossella, thank you on behalf of homeowners. No question, if you look at New York, Florida, anywhere else, the important deduction, using the deduction as a means of helping afford homeownership is more important now than ever. Rising real estate taxes, all these other factors are hurting and really diminishing the middle class and all classes from being able to continue to aspire to own their own home and give a roof over their children's heads. So, I want

to commend you for the New York delegation's proactive approach and all the Members for their good testimony today.

Chairman CAMP. Thank you. Mr. Linder, who has long been involved in fundamental tax reform.

Mr. LINDER. I would like to make a few comments on the graphs, Mr. Fattah. I think that he has a creative idea. But, on the graphs, simplified income tax that you show at 33 percent doesn't include the payroll tax; it is much higher than that. The growth and investment tax doesn't include getting rid of the payroll tax; it is much higher than that. The flood tax doesn't include getting rid of the payroll tax; it is much higher than that. The national retail sales tax that you quoted, 30 percent, does include the payroll tax on that, so relatively it is a much better looking picture. More importantly, you express the national retail sales tax as an exclusive tax on top of what you spend. Were it to be inclusive, including what you spend, it would be 23 percent. You include the simplified income tax, however, as an inclusive tax. Were you to include that as an inclusive tax to compare apples to apples, there would be a 50 percent tax rate. So, it is interesting to have these charts, but if they are not accurate, they are not helping your case. Thank you.

Mr. FATTAH. Well, we will be glad to make those corrections; and I appreciate all the work that you have done on this issue. But I think that the fundamental point, nonetheless, is that the base for a transaction fee is so much larger than, for instance, even a national sales tax base that the rate could be a nominal rate, at a level that—what CRS has said is that, for 0.4 percent, for less than half a percent, we can generate revenue neutrality just looking at transactions moving through the Fed alone, and even there is another \$47 trillion in transactions that are outside the Fed that are easily identifiable and transparent enough for us to tap into. But I want to come back. I will be glad to answer all these questions, but I do appreciate your point, and you are right about the inclusivity versus noninclusivity of these two other proposals. Thank you.

Chairman CAMP. All right. Ms. Hart.

Ms. HART. Thank you, Mr. Chairman. I want to just commend the Members for being here. This is an issue that has been near and dear to me for a long time. As I know—Congressman Fattah remembers we worked on a lot of tax reform measures, so I am just pleased that so many Members are engaged in this and a lot of the fundamentals that they want to see are coming together. So, I look forward to the rest of the hearing. Thanks.

Chairman CAMP. All right, thank you. Well, we will suspend now. To the extent the panel Members can return, we will continue our questioning after this series of votes. Thank you.

[Recess.]

Chairman CAMP. We will resume the hearing. Mr. Fattah, thank you for coming back. As I said before the break, I really appreciate your approach to fundamental tax reform and the effort that you are putting into it. As I get my questions organized, why don't I defer to Mr. Larson and let him ask his questions, and then I'll follow up.

Mr. LARSON. Well, thank you, Mr. Chairman. Let me join with the Chairman in thanking you, Mr. Fattah, for coming back, and

thank you for what is certainly a provocative proposal and I think a very poignant one and one well-placed in terms of having a study. I just have three questions that I would like to ask you. First, with respect, and I am sure you have read the President's tax reform panel's report and its recommendations. What would you say distinguishes your bill, H.R. 1601, from other tax proposals?

Mr. FATTAH. Well, the two things I agree with in terms of the President's tax commission report is, one, they say in conclusion that their effort is just to begin a dialog and to launch the dialog. I think they have been helpful in that regard. Second, and much more substantively, they say that what is uncontradicted in terms of tax policy, worldwide, in every single economy, is that the larger a base for a tax, the lower the rate necessary to generate the revenues. So, I agree with that. Then what I would say distinguishes my proposal from any of the other known proposals, including the current system, is we are not simply trying to tax income or tax, in the case of the national sales tax, retail sales, or we are not just trying to tax capital gains. These are relatively small incidents of economic activity. What we are going after is the elephant in the room, if you would. That is to say what happens the most in our economy is that money changes hands, transactions take place. Inside the Federal Reserve, for instance, over \$3 trillion in transactions take place every day. So, when we are talking about almost \$800 trillion in transactions last year, this is by the report of the Congressional Research Service, if you were trying to extract revenue neutrality from \$800 trillion, it is as simple as having \$800 and taking out \$2.60, and you would pay the entirety of what we receive in all of these other tax streams.

The difference is by going through a Federally regulated banking system, we could extract those receipts without the need of Americans filling out tax forms, without the threat of audits to them as individuals or the other onerous and cumbersome and costly methods they have to do to comply with our Tax Code. I am saying essentially what was said a while ago. You rob banks because that is where the money is. In the American economy, we could generate the revenues we need to finance our government in a way that would be less intrusive, would not require Americans to divulge their personal private activity, and I think we could engender a lot more confidence in the government in that way and also have a revenue source that we could use in a very flexible way. If there were problems in a particular region or particular industries, this Committee, in its wisdom, to adjust the fee, eliminate the fee for a period of time. I think it could be used in a variety of ways. It has gotten some international note because of its provocative nature, and I shared with the Committee comments from a very senior economist in the world's largest democracy, India, on this concept. So, I think it is at least worthy of study. That is how I offer it.

Mr. LARSON. Given our Tax Code, Mr. Fattah, and with all of its warts and blemishes, it does provide for some notable provisions, such as mortgage reduction, Hope education credits, earned income tax credits. Does your proposal eliminate these?

Mr. FATTAH. What I say on the last page of H.R. 1601 is what we want Treasury to do is look at those issues in terms of mortgage deduction, earned income tax credit, charitable giving and to make recommendations to us about how in a different system, for instance, you could alleviate the transaction fee on housing-related expenses. You could alleviate it on charitable giving. There may be ways to encourage those activities without the burdens of our system. But I do think there is a lot that has been done by this Congress and Committee that we should seek to preserve, even as we seek to perfect a better system of revenue generation.

Mr. LARSON. Some would argue, if I could play the devil's advocate here, that your proposal might in fact have the outcome of creating a new fee that drives business out of the country. Clearly, that is not your intent or design. How would you respond to criticism such as that? Does your bill in your mind create incentives or would this proposal in fact price American companies out of their own market?

Mr. FATTAH. We would say to American companies, no more corporate taxes, no more capital gains, no payroll taxes. They would be eliminated from all of the present tax burden. We would replace it with a nominal fee on transactions and this Committee has spent a number of years wrestling with what are termed to be Benedict Arnold corporations that have left our country, left just in the sense of where their offices are, for purposes of taxes, to try to avoid our tax system, and what we have heard from a lot of Members is it is because of the costly compliance; it is because of the high corporate tax rates. My proposal eliminates those rates, and what CRS says is it would unleash a lot of new economic activity because the cost of hiring employees, the cost of doing business, would be less onerous, and it would be shared across the economy in a way which would make the rates so nominal. It is almost as if it was a—I equate it to an ATM fee. When you go to a cash machine, if you need \$20, you pay a small fee. If you need \$200, you pay the same fee. It is the fee for doing a transaction. I would argue that our government creates the regulatory and legal environment that allows a lot of these transactions to take place anyway, whether it is our court system or other systems of regulation of banks, that it is as much a user fee. That is why I use the term fee, not to avoid the term tax, but I think conceptually what I am saying is that the reason why we have the greatest economy and the reason why we have the most transparent transactions is because people feel free to transact business in the American economy because we have created an environment that makes those transactions protected in an important way.

Mr. LARSON. I thank the gentleman for his testimony and answering the questions. Truly this is a provocative proposal that more than merits a study. I am heartened that the Chair sees it in the same favorable light as have other Members. Hopefully—I will clearly support it, and I hope the other Members of the Committee will support this coming forward.

Chairman CAMP. Mr. Fattah, do you contemplate certain components of this tax system being determined by the Treasury Department, and, if so, do you think that might be an undue—there might be undue authority in the Treasury Department to determine

which programs, for example, are funded by the transaction tax or the rate of the transaction tax? How do you see that?

Mr. FATTAH. As you know, Article I of our Constitution identifies this Committee, the Committee on Ways and Means, as the Committee that would determine a policy relative to raising revenues. So, the ultimate authority would rest here with the Congress. What I have suggested is Treasury do a study. In my conversations with Chairman Thomas, he thinks it would be useful if joint tax or we had other studies being done at the same time, so we have something to compare and contrast various findings. Obviously, since we are talking about doing something new, the empirical work and the validation and the qualifications of a lot of these ideas, because there are a lot of nuances and questions that have to be answered about how we might proceed, the theory would be, is, it may be helpful to have more than one cook in the kitchen.

Chairman CAMP. Thank you. Ms. Tubbs Jones may inquire.

Ms. TUBBS JONES. Mr. Chairman, thank you very much. I apologize if I ask a question that has already been asked of you, Mr. Fattah. Tell me, some people say with regard to taxing based on transactions has a greater impact on lower-income people who do a lot of transactions than upper-income people who may not do as many transactions. Can you respond to that?

Mr. FATTAH. Yes. We have done a couple things. In my proposal we suggest two exemptions on that score. One is the exemption of all transactions under \$500, so that transactions under \$500 would not be subject to a fee, number one. Number two, we want to exempt the paychecks from employers to employees because a lot of working people earn their living not through investments but through earned income. I think we have talked to various economists, we talked to, for instance, the lead economists for the Joint Center for Political Studies and walked through this in detail and had an analysis done that shows this would not have a negative impact on working families. The essence you get to is this: If there is a 1 percent fee on a transaction, and your income is \$20,000, then at the end of the day, your total tax bill, no matter how many transactions you make, can't be much more than the 1 percent. So, that at the end of the day, what you end up paying is correlated to what you actually transact in a given year. Lower-income people would be making less transactions in terms of the aggregate amount. There may be instances in which they purchase a home or make another purchase in which it could vary in a given year. But we are convinced that it won't have a negative impact.

Second, we are convinced, when you look at the payroll tax impact on working-class families and low- to moderate-income families, which is not just the 10 percent they pay in the payroll tax, but if their employer has to pay the employer's share, we would argue and many economists agree, that a large part of the employer's share would be part of the base pay for these workers if that burden did not exist. So, the answer, the transaction fee has the potential of actually lifting boats in terms of the economic circumstances of families. What we are prepared to do, and we lay out in the study that we want a detailed understanding of how this will impact various economic groups in the country. But we are

comfortable this is a proposal that would increase fairness versus regress from it.

Ms. TUBBS JONES. Let me stay on the payroll tax. Stay on the payroll tax, please. FICA funds Social Security, et cetera. How do you fund that under your tax proposal?

Mr. FATTAH. My proposal is that we would generate the revenues that we now generate through the payroll tax and the revenues we generate through the income tax and the revenues we generate from the capital gains and other taxes that we levy, we would generate the totality of those revenues through transaction fees in replacement for those taxes. We get rid of those taxes and replace it with this transaction fees. As the dollars flow into the government, we would first fund out for those years the trust fund payments before dollars would then flow into the General Fund as they would in this case now.

Ms. TUBBS JONES. The last question: Many would suggest that a transaction fee tax, and if somebody has asked this question, forget I have asked it, is comparable to a consumption tax. Distinguish between your proposal and a consumption tax?

Mr. FATTAH. I think at best what I could say is that this is a tax or a fee associated with transactions. The reason why people associate it with a consumption tax is there is this sales tax notion that that is a consumption tax. We are well beyond retail sales here. In fact, we are into business to business transactions, which now if company A buys company B today for \$15 billion, for the most part none of the dollars involved in that transaction are going to accrue to the Federal government under our present tax system. Under this fee, 1 percent or less of that would go to help fund the Federal government. In all of these transactions that are taking place outside the scope of any revenue generation for the Federal government would now be inside the scope, and it brings to bear really I think one way you could describe it as a consumption-plus, because it is retail sales, it is all other transactions that take place in our economy, except those that the Congress might except for any reason.

There are arguments that, in the financial markets, right, in which the heart of their business is financial transactions, we may want to, for purposes of not losing business for international transactions, have much lower transaction fees than in other industries. These are decisions that would have to be made, and I trust the wisdom of this Committee. I serve on the Appropriations Committee. We do know how to spend money, but I think the questions about the nuances of how we might apply these—and we have had CRS do a number of studies, looking at cascading effects, looking at evasion, but what we have really done is taken this to the point now where we need the expertise of the Treasury Department and of the Joint Committee on Taxation and others to really rule it in or rule it out. I am not looking for any rose-colored view of the proposal, but I do think that it deserves a rigorous analysis, and I was happy to see Mr. Yen saying the way we have designed the study is focused at getting questions answered that need to be answered in terms of deciding whether this proposal deserves merit.

Ms. TUBBS JONES. Mr. Fattah, thank you for your open, honest responses. Good luck.

Chairman CAMP. Thank you, Mr. Fattah. Our next panel includes the Honorable Nita Lowey from the State of New York, the Honorable Tammy Baldwin of Wisconsin, the Honorable Ric Keller from the State of Florida, the Honorable Scott Garrett from the State of New Jersey, and the Honorable Luis G. Fortuño from the Commonwealth of Puerto Rico. Thank you. Each Member has 5 minutes to summarize their testimony. Your written statements will be made part of the record. We will begin with Mr. Fortuño. Welcome to the Committee. You may begin at any time.

STATEMENT OF THE HONORABLE LUIS G. FORTUÑO, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PUERTO RICO

Mr. FORTUÑO. Thank you, Mr. Chairman. Mr. Chairman and Members of the Committee, it is my pleasure to be here this afternoon. I appreciate the opportunity to testify at this hearing. My bill, H.R. 2181, now substituted by alternative bill H.R. 4323, would extend the benefits of the manufacturing deduction enacted with the American Jobs Creation Act of 2004 to manufacturing operations conducted in Puerto Rico as well. The alternative bill also includes the extension for 1 year of the rum tax “covered over” for Puerto Rico and the U.S. Virgin Islands. I want to thank Chairman Thomas for his leadership on this matter, which is of the utmost importance to the U.S. citizens of Puerto Rico. I also want to take this opportunity to thank the Members of this Committee who have already expressed their support for this bill. This bill represents my top legislative priority. My message today is very simple. If you manufacture a product in one of the 50 States, the new manufacturing deduction means that you will pay tax on your manufacturing income at 32 percent. If you manufacture that same product in Puerto Rico, you will pay tax on your manufacturing income at 35 percent. My bill makes sure that manufacturing in the 50 States and manufacturing in Puerto Rico will be taxed at the same 32 percent rate.

Under the Internal Revenue Code, U.S. corporations that operate in Puerto Rico in branch form are subject to full U.S. tax on the income from those operations in the same manner as income from operations in the mainland. Thus, a U.S. corporation’s income from manufacturing activities in Puerto Rico is subject to immediate tax in the United States, as well as being subject to tax in Puerto Rico. New Code section 199 provides a deduction for income attributable to certain manufacturing activities. The deduction begins at 3 percent of taxable income from qualifying manufacturing activities for 2005 and increases to 9 percent of taxable income from qualifying taxable activities for 2010 and subsequent years. When fully phased in, the reduction represents a reduction in the top corporate tax rate applicable to qualified manufacturing income from 35 percent to approximately 32 percent. Under current law, the section 199 deduction applies to income from manufacturing activities in all of the U.S. States but does not apply to income from manufacturing activities in Puerto Rico. Therefore, income earned by a U.S. corporation from manufacturing activities in Puerto Rico is subject to a U.S. tax at a 35-percent rate, while income from manufacturing activities on the mainland is subject to a U.S. tax at a re-

duced rate of 32 percent when the manufacturing deduction is fully phased in.

This difference in tax break under the current law means the U.S. tax cost of operating in Puerto Rico is significantly higher than the U.S. tax cost of operating in any of the 50 U.S. States. The higher U.S. tax burden creates a clear disincentive for U.S. companies to conduct manufacturing operations in Puerto Rico. The difference in tax treatment will distort manufacturing location choices, putting Puerto Rico at an unfair disadvantage relative to the mainland in terms of attracting and retaining investment. It will force U.S. companies to make decisions about whether to set up or continue their manufacturing operations in the mainland or Puerto Rico based on differences in U.S. tax treatment of the income to be earned. This bill extending the section 199 manufacturing deduction to Puerto Rico eliminates this difference in tax treatment. It eliminates the relative disadvantage for manufacturing operations in Puerto Rico that is created under current law. It also provides U.S. companies with comparable U.S. tax treatment for the manufacturing activities conducted in branches in Puerto Rico and their manufacturing activities conducted in any of the U.S. States. This bill does not provide any special benefit to Puerto Rico or to companies operating in Puerto Rico. It simply treats manufacturing conducted in Puerto Rico the same as manufacturing conducted in the mainland, leaving companies free to choose where to locate based on business considerations. It levels the playingfield for operations in Puerto Rico and operations in the mainland.

We have worked closely with the technical experts to make sure that the application of section 199 is appropriately crafted. Based on those discussions, we modified the statutory language of H.R. 2181 in the alternative bill so it is clear that section 199 will apply to manufacturing operations that are conducted by U.S. companies in Puerto Rico in branch form where the income from those operations is subject to immediate U.S. tax in the same manner as income from operations on the mainland. Code section 199 was enacted last year to enhance the ability of U.S. companies to compete in the global marketplace. As the legislative history to this provision states, "a reduced tax burden on domestic manufacturers will provide the cash flow of domestic manufacturers and make investments in domestic manufacturing facilities more attractive. Such investment will assist in the creation and preservation of U.S. manufacturing jobs." I agree with this wholeheartedly. Extending section 199 to provide equal treatment to manufacturing activities conducted in Puerto Rico will further enhance the ability of U.S. companies to compete in the global marketplace. Extending it to Puerto Rico will assist the creation and preservation of those jobs. Thank you for this opportunity to provide testimony. I will be happy to answer any questions.

[The prepared statement of Mr. Fortuño follows:]

**Statement of The Honorable Luis G. Fortuño, a Representative in Congress
from the Commonwealth of Puerto Rico**

Mr. Chairman and Members of the Committee, it is a pleasure to be here this morning. I appreciate the opportunity to testify at this hearing. My bill, H.R. 2181, would extend the benefits of the manufacturing deduction enacted with the Amer-

ican Jobs Creation Act of 2004 to manufacturing operations conducted in Puerto Rico. I also want to take this opportunity to thank the Members of this Committee who have already expressed their support for this bill. This bill represents my top legislative priority.

My message today is very simple. If you manufacture a product in one of the fifty States, the new manufacturing deduction means that you will pay tax on your manufacturing income at 32%. If you manufacture that same product in Puerto Rico, you will pay tax on your manufacturing income at 35%. My bill makes sure that income from manufacturing in the fifty States, and from manufacturing in Puerto Rico, would be taxed at the same 32% rate.

Under the Internal Revenue Code, U.S. corporations that operate in Puerto Rico in branch form are subject to full U.S. tax on the income from those operations, in the same manner as income from operations in any of the fifty States. Thus, a U.S. corporation's income from manufacturing activities in Puerto Rico is subject to immediate tax in the United States (as well as being subject to tax in Puerto Rico).

New Code section 199 provides a deduction for income attributable to certain manufacturing activities. The deduction begins at 3 percent of taxable income from qualifying manufacturing activities for 2005 and increases to 9 percent of taxable income from qualifying manufacturing activities for 2010 and subsequent years. When fully phased in, the deduction represents a reduction in the top corporate tax rate applicable to qualifying manufacturing income from 35 percent to approximately 32 percent.

Under current law, the section 199 deduction applies to income from manufacturing activities in all of the U.S. States but does not apply to income from manufacturing activities in Puerto Rico. Therefore, income earned by a U.S. corporation from manufacturing activities in Puerto Rico is subject to U.S. tax at a 35% rate while income from manufacturing activities in a State is subject to U.S. tax at a reduced rate of 32% (when the manufacturing deduction is fully phased in).

This difference in tax treatment under current law means that the U.S. tax cost of operating in Puerto Rico is significantly higher than the U.S. tax cost of operating in any of the U.S. States. The higher U.S. tax burden creates a clear disincentive for U.S. companies to conduct manufacturing operations in Puerto Rico. The difference in tax treatment will distort manufacturing location choices, putting Puerto Rico at an unfair disadvantage relative to U.S. States in terms of attracting and retaining investment. It will force U.S. companies to make decisions about where to set up, or continue their manufacturing operations in the States or Puerto Rico, based on differences in the U.S. tax treatment of the income to be earned.

My bill extending the section 199 manufacturing deduction to Puerto Rico eliminates this difference in tax treatment. It eliminates the relative disadvantage for manufacturing operations in Puerto Rico that is created under current law. It provides U.S. companies with comparable U.S. tax treatment for their manufacturing activities conducted in branches in Puerto Rico and their manufacturing activities conducted in any of the U.S. States.

My bill does not provide any special benefit to Puerto Rico, or to companies operating in Puerto Rico. It simply treats manufacturing conducted in Puerto Rico the same as manufacturing conducted in one of the States, leaving companies free to choose where to locate based on business considerations. It levels the playing field for operations in Puerto Rico and operations in any of the U.S. States.

Code section 199 was enacted last year to enhance the ability of U.S. companies to compete in the global marketplace. As the legislative history to this provision states, "a reduced tax burden on domestic manufacturers will improve the cash flow of domestic manufacturers and make investments in domestic manufacturing facilities more attractive. Such investment will assist in the creation and preservation of U.S. manufacturing jobs."

I agree with this wholeheartedly. Extending section 199 to provide equal treatment to manufacturing activities conducted in Puerto Rico will further enhance the ability of U.S. companies to compete in the global marketplace. Extending section 199 to Puerto Rico will assist in the creation and preservation of the local manufacturing jobs that are so vitally important to the Puerto Rican economy.

Thank you for the opportunity to provide this testimony. I would be happy to answer any questions.

Chairman CAMP. Thank you very much. Mr. Keller, you have 5 minutes.

STATEMENT OF THE HONORABLE RIC KELLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. KELLER. Thank you, Mr. Chairman, and I thank all the Members for showing up here today and holding this hearing to allow us to testify about important tax issues. Earlier this year, I introduced the Family Friendly Employer Act, H.R. 1518. That is legislation that allows businesses to help pay for their employees' children's education. When I was growing up in Orlando, Florida, I didn't have enough money to pay for college tuition. My mother worked as a secretary at an investment company, and as a last resort, I asked her boss if he would help fund my education. I was only able to go to college because of his generosity. I think we should reward employers like my mother's who invest in their community and help increase college access for their employees' children. That is why I wrote the Family Friendly Employer Act. My bill allows employees to provide up to \$2,500 in tax-free reimbursements for tuition, books and fees for their employees' children's education. Employers already enjoy a \$5,250 benefit to help provide for their employees' non-job-related education. My bill would simply expand the first \$2,500 of the benefit to apply to the employees' children.

The cost of this bill would be low or nothing. Employers will be able to provide the first \$2,500 benefit to either the employee or his or her children, but not both. Also, the benefit applies to each employee's children in the aggregate, so an employee would receive the same benefit no matter the number of the children. Let me give you a real live example. There is a major employer in my district of Orlando, Florida, named Harris Rosen who owns six hotels. He is a generous man and takes advantage of this code to say, yes, if you are one of my employees, I will help send you to college. Now, here is the real deal. A lot of his employees are housekeepers and janitors, and they are old, and many don't speak English and they don't frankly have an interest in going to college. They do have children in high school who are low-income kids who would love the opportunity to go to college, and he says, let me give the benefit to the employees or their kids. It sounds like a good commonsense approach. That is one of the reasons that this bill enjoys bipartisan support. I want to thank Charlie Rangel, the Ranking Member of the full Committee, for cosponsoring this bill. Additional cosponsors on the Committee on Ways and Means include Melissa Hart, Phil English and Mark Foley, Democrats Harold Ford, Danny Davis, Major Owens, Dutch Ruppersberger, John Conyers and Donald Paine are also cosponsors of this legislation.

I have received letters of support for the Family Friendly Employer Act from the education, business and labor communities. The organizations in support of this bill include the American Association of Community Colleges, the American Association of State Colleges and Universities, the American Council on Education, also known as ACE, the Communication Workers of America, the AFL-CIO and many more. Mr. Chairman, let's help the business community invest in their companies, their communities and our children's education. I thank you for holding this hearing and urge my colleagues to support this bill.

[The prepared statement of Mr. Keller follows:]

**Statement of The Honorable Ric Keller, a Representative in Congress from
the State of Florida**

Mr. Chairman, thank you for holding this hearing today to allow Members to testify about important tax issues.

Earlier this year, I introduced the Family Friendly Employers Act (H.R. 1518), legislation that allows businesses to help pay for their employees' children's education.

When I was growing up in Orlando, I didn't have enough money to pay for college tuition. My mother worked as a secretary at an investment company. As a last resort, I asked her boss if he would help fund my education. I was only able to go to college because of his generosity. We should reward employers, like my mother's, who invest in their community and help increase college access for their employees' children.

That's why I wrote the Family Friendly Employers Act. My bill allows employers to provide up to \$2,500 in tax-free reimbursements for tuition, books, and fees for their employees' children's education. Employers already enjoy a \$5,250 benefit to help provide for their employees' non-job-related education. My bill would simply expand the first \$2,500 of the benefit to apply to employees' children.

The costs of this bill will be low. Employers will be able to provide the \$2,500 benefit to either their employee or his or her children, but not both. Also, the benefit applies to each employee's children in the aggregate, so that an employee would receive the same benefit, no matter the number of children.

This bill enjoys bipartisan support. I want to thank Charlie Rangel, the Ranking Member of the Full Committee, for cosponsoring this bill. Additional cosponsors include Phil English, Mark Foley and Melissa Hart of the Ways and Means Committee. Democrats Harold Ford, Danny Davis, Major Owens, Dutch Ruppersberger, John Conyers, and Donald Payne are also cosponsors of this legislation.

I have received letters of support for the Family Friendly Employers Act from the education, business and labor communities. The organizations in support of this bill include the American Association of Community Colleges, the American Association of State Colleges and Universities, the Communications Workers of America, AFL-CIO, and many more.

Mr. Chairman, let's help generous businesses invest in their companies, their communities, and our children's education. I thank you for holding this hearing and urge my colleagues to support this bill.

Chairman CAMP. Thank you very much. Ms. Baldwin, you have 5 minutes.

STATEMENT OF THE HONORABLE TAMMY BALDWIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Ms. BALDWIN. Thank you, Mr. Chairman. Thank you Members. I really appreciate the opportunity you have given us to testify before this Subcommittee today, for me specifically on a bill I reintroduced this past April, H.R. 1597, the Child Tax Credit for American Families Act. I would like to talk about a family in my own Congressional District with whom families in every State and every Congressional District can certainly relate. Dennis and Carol McQuade live in Madison, Wisconsin, and have two sons, Miguel and Beto. Dennis is a veteran of the Vietnam War who works as a dedicated social worker in our community, while Carol has worked as a school nurse for the past 25 years. Beto is a typical studious freshman at the University of Wisconsin-Madison and is currently trying to figure out what major he wants to pursue. His younger brother, Miguel, is a senior at East High School and is busy sending out college applications, making college visits and trying to save enough money from his part-time job working at UW football games to help his parents with college costs for next year.

Like most Americans, Dennis sits down every spring and compiles his family's tax returns. When Miguel and Beto were younger, Dennis and Carol always took solace in the fact that they could claim the Child Tax Credit to help them afford things that their kids needed, perhaps a new pair of sneakers or bigger clothes for their growing boys. But when Beto turned 17 a few years ago, Dennis got the surprise that most parents before him have received: Once a child turns 17, parents are no longer able to claim them with the Child Tax Credit.

Congress limited the tax credit to parents with children under the age of 17 because some felt that 17- and 18-year-olds were essentially not children anymore, they were perhaps less reliant on their parents for basic every day needs. But being a parent to older teens is certainly not easy financially. In fact, finding the funds to send your child off to the next stage of his or her life, particularly college, is typically one of the most expensive times to be a parent, let alone one of the most stressful and heart-wrenching. In the past, Congress has acknowledged the larger financial burden of parents of 17- and 18-year-olds, the larger financial burden that they typically shoulder. For example, lower-income families with dependent children under the age of 18 are eligible to claim the Earned Income Tax Credit, while children with a deceased parent are eligible for Social Security survivor benefits as long as they are under the age 19 and in school. It appears to me that the Child Tax Credit age limit is an anomaly in our current tax practices. My bill would amend the Tax Code and would expand the Child Tax Credit to parents of 17- and 18-year-olds. Congress was wise to raise that credit to \$1,000 4 years ago, and would be wise again to expand this invaluable tax credit. Without a doubt, H.R. 1597 would greatly assist most parents, especially single parents, to cope with the rising costs of having older teens and preparing them for the next stage in their life. I urge this Subcommittee to take action on this needed legislation. Thank you again for giving me the opportunity to testify this afternoon.

[The prepared statement of Ms. Baldwin follows:]

Statement of The Honorable Tammy Baldwin, a Representative in Congress from the State of Wisconsin

Thank you, Mr. Chairman, for giving me the opportunity to testify before your subcommittee today on a bill I reintroduced this past April, H.R. 1597, the Child Tax Credit for American Families Act.

I would like to talk about a family in my congressional district with whom families in every state—and every congressional district—can identify. Dennis and Carol McQuade live in Madison, WI and have two sons, Miguel and Beto. Dennis is a veteran of the Vietnam War who works as a dedicated social worker, while Carol has worked as a school nurse for the past 25 years.

Beto is a typical, studious freshman at the University of Wisconsin-Madison and is currently trying to figure out what major he wants to pursue. His younger brother, Miguel, is senior at East High School and is busy sending out college applications, making college visits, and trying to save enough money from his part-time job working at UW football games to help his parents with college costs next year.

Like most Americans, Dennis sits down every spring and compiles his family's tax returns. When Miguel and Beto were younger, Dennis and Carol always took solace in the fact that they could claim the Child Tax Credit to help afford the things that their kids needed—perhaps a new pair of sneakers or bigger clothes for their growing boys. But when Beto turned 17 a few years ago, Dennis got the surprise most parents before him have received: Once a child turns 17, parents are no longer able to claim the Child Tax Credit.

Congress limited the tax credit to parents with children under 17 in part because they felt that 17 and 18 year-olds are essentially not children anymore. Some 17 and 18 year-olds are less reliant on their parents for their basic, everyday needs, but being a parent to older teens is certainly not easy financially. In fact, finding the funds to send your child off to the next stage of his or her life is typically the most expensive time to be a parent—let alone the most stressful and heart-wrenching.

My bill would amend the tax code and expand the Child Tax Credit to parents of 17 and 18 year-olds. Congress was wise to raise the credit to \$1,000 four years ago and would be wise again to expand this invaluable tax credit. Without a doubt, H.R. 1597 would greatly assist most parents—especially single parents—cope with the rising cost of having older teens, and preparing them for the next stage of their life. I urge the subcommittee to take action on this needed legislation.

Thank you again for giving me the opportunity to testify today Mr. Chairman.

Chairman CAMP. Thank you very much. Mr. Fortuño, under your legislation, would companies that operate in Puerto Rico and qualify for this new domestic manufacturing deduction, would they pay U.S. taxes then?

Mr. FORTUÑO. Yes, indeed. We are talking about actually branches, U.S. branches of U.S. companies, so they will be paying U.S. taxes, exactly.

Chairman CAMP. Would that then be a replacement for the Possessions Tax Credit which expires at the end of this year?

Mr. FORTUÑO. As you well said, Mr. Chairman, it expires at the end of this year. Certainly it would allow for certain industries that operate with U.S. branches today to continue operating in Puerto Rico. Otherwise we face potentially a further phase-out of manufacturing jobs out of Puerto Rico simply because there was this oversight perhaps last year.

Chairman CAMP. All right. Thank you. Mr. Larson may inquire.

Mr. LARSON. Thank you very much, Mr. Chairman. Mr. Fortuño, thank you for your testimony. As always, you articulate the concerns of the island, and I think do so in a very positive manner. Mr. Keller, I want to applaud you for your very pragmatic hands-on approach. Please count me as a sponsor of your legislation. I think that it should move forward. It is timely and thoughtful, and, as you said, will in many instances probably cost less. I want to thank the gentlelady from Wisconsin for testifying as well, probably the most enlightened Member of the 106th Congress to come here to this grand institution, along with Ms. Tubbs Jones, I might add. But I do have a question with regard to it. The anecdote that you provide for us by way of the McQuade family I think is very important inasmuch as you point out currently we address a number of the concerns that relate to people that receive Social Security survivors benefits and low-income families. This proposal would seem to really focus on a broad swarth of the middle class. Do you have statistics that would bear that out? Do you know the impact this would have?

Ms. BALDWIN. Yes indeed. Clearly, this is a program that is of great benefit to American middle-class families; 95 percent of the benefits would go to the 65 percent of families in the United States with incomes between \$20,000 and \$200,000. On average, the credit reduces their tax liabilities or in some cases increases their refund by between \$330 and \$605. Roughly one-third of that popu-

lation would be able to claim a higher tax credit because of multiple children. As we know, this particular part of the Tax Code represents a very significant commitment to middle-class families and children, and working hand in hand with the policy that drives the Earned Income Tax Credit is very profound way in which the United States stands by American working families.

Mr. LARSON. This is an enormous leap forward, just by impacting 17- and 18-year-olds.

Ms. BALDWIN. When Congress originally enacted the Child Tax Credit, it really stated three purposes behind it: Reducing the individual income burden of families, recognizing the financial costs concerned with raising children and promoting family values. I guess by raising and allowing 17- and 18-year-olds to be claimed, we would be expressing another value, and that is a value in higher education. Many parents, we hope many more, can plan for assisting their youngsters make the next transition in life. Saving for college expenses at that point is a major burden, and to have that tax credit disappear just as their child turns from 16 to 17, just as they are trying to pull together the resources for them to take their next step, is quite a challenge for many families, and I might say quite a surprise to many families.

Mr. LARSON. In many respects, it is not a bad companion to Mr. Keller's bill, but your bill also, knowing the host of different areas where expenses are rising for all families, whether it is education, whether it is energy costs, whether it is mortgage costs, and so forth, these all will be very important and necessary improvements, and, as you said, quite a surprise to many people as well. I fully support the legislation, and I commend the gentlelady from Wisconsin for putting it forward.

Chairman CAMP. Mr. Foley.

Mr. FOLEY. Let me thank my colleague from Puerto Rico for his help last evening on some of the tax bills we were trying to provide. We received a letter from the Governor indicating his support for American Samoa. It was a 1-year extension and they are in desperate need of help, and I know you have been communicating with Members on behalf of Puerto Rico to make certain you all remain competitive. In your particular bill it seems to hit a very important part of increasing productivity for Puerto Rico. Because I see from your testimony there is a 3 percent differential in rates charged for manufacturing in Puerto Rico that is different from if they were doing the same manufacturing in the United States. Could you expound on that just a little bit, a couple of companies that may be under that additional burden, if you will, of taxation?

Mr. FORTUÑO. Certainly. Thank you very much again for last night, Mr. Foley. Certainly you are a friend of Puerto Rico, and we all know that. Essentially, we don't want any special deals for Puerto Rico. We just want a level playingfield. If we don't do this correction, although technically it is not a correction, I understand, but if we don't correct this situation, what would happen is that there will be a tax disadvantage for U.S. branches of mainland companies doing business in Puerto Rico merely because there is this 3 percent differential. What we are trying to do is make it so they can make their business decisions based on the competitiveness and the business climate in the island as compared to the 50

States, not based on this tax disadvantage. Nothing else. We don't want any special deals.

Mr. FOLEY. Well, we are encouraged by it, because obviously it is important for the economic opportunities, and we like the structure of your bill. Mr. Keller, I want to thank you as well. I am proud to be a cosponsor of your initiative. I want to thank the Chairman for the hearing to get a chance to talk about this. You learned about this opportunity I believe in Orlando from a hotelier, Mr. Rosen, didn't you?

Mr. KELLER. That is correct. Mr. Rosen is a well-known philanthropist. He went to an African-American elementary school in the area called Tangelo Park Elementary and made a pledge which he has honored that every single child in that school that graduates from college, he will personally pay for their college education, and he has done that—that any child that graduates from high school, he will pay their education. His next idea came about after talking with his CPA saying, hey, I want to help pay for the kids of my employees to go to college, and they said you can't allow it because of some technical glitch in the law, but if you change this little glitch, it won't cost the taxpayers any money and you will be able to achieve what you want to do and help those employees' kids go to college. He brought the idea to my attention, and that is how I came forward with the bill.

Mr. FOLEY. It is very, very good. With the cost of education always rising so dramatically, we are going to have to look at every opportunity to help cover college tuition, and this particular one seems to not just talk about the employees bettering their education but giving the next generation a leg up.

Mr. KELLER. Absolutely. I happen to have the honor of serving on the Education Committee, and we have received a report from the Advisory Committee on Financial Aid, and that is a non-partisan Committee funded by Congress to give us advice, and this is what it says: If we increase the access to college for those students who are qualified to go but who currently can't afford it, it would generate up to \$85 billion in additional tax revenue, the reason being the average college graduate makes 75 percent more than the average high school graduate. So, not only would this not cost us money, it would end up saving us money in the long term.

Mr. FOLEY. Thank you. Ms. Baldwin, I am impressed with your bill as well. I always wondered why we have this cutoff for the Child Tax Credit. I am not a parent, but I know with my colleagues that I have grown up with, and I go over to their houses, at about 16 to 18, they almost eat the refrigerator, never mind the contents. They are a very big expenditure on families, clothing; they are changing sizes. It just seems to me that as long as the kid resides at the house, even up until the first year of college, that that extension should be granted, because orthodontic bills, additional things that come up, they want to drive a car; there is the car insurance, fuel. There are a lot of burdens parents face, not just between the ages of 1 and 17, but obviously, as they continue to support and nurture their kids. So, it is a very thoughtful bill.

Ms. BALDWIN. Thank you.

Chairman CAMP. Ms. Tubbs Jones may inquire.

Ms. TUBBS JONES. Thank you, Mr. Chairman. To Mr. Fortune, Mr. Keller, Ms. Baldwin, as one of the Members of the Subcommittee, I am pleased that you would take the time to come forward with your various ideas with regard to taxing. I think all of them give us an opportunity to in fact delve into how do we in fact tax Americans and how do we also build revenue for our country. I don't have any further questions. I thank you for coming and am glad to have had this opportunity. I would add this, Mr. Chairman, before we end, that the class 1999 was clearly the best class for Congress. It includes Mr. Larson, Ms. Baldwin and myself, and we are continuing to enjoy our service. Thank you very much.

Chairman CAMP. The record will duly note that. Ms. Hart may inquire.

Ms. HART. So, I now I know where that Prince song came from. Thanks, Mr. Chairman. I appreciate the opportunity to engage in a little bit of dialog with the witnesses. I want to start with Mr. Fortuño. I just have a couple questions about the economic situation in Puerto Rico, because I am not really familiar with it. For example, can you give me an idea of what the unemployment rate is?

Mr. FORTUÑO. Sure. The latest number is 12.5 percent.

Ms. HART. So, it is way higher than average in the United States. Do you anticipate that something like this, if we follow what your bill asks us to do and reduce that tax, that there may be an increase in jobs there that might affect that rate?

Mr. FORTUÑO. I can assure you I have been working directly with many of our corporate citizens, U.S. branches operating in the Commonwealth, and indeed, at the very least, they would not move their operations just solely because this will happen at the end of the year. They will indeed consider our competitiveness, and based on that, they will remain and maintain their line of business. They may even add new lines of manufacturing, should we be able to include Puerto Rico under 199.

Ms. HART. Are there other taxation situations or expenses that are unique to Puerto Rico that you think may also be a detriment to business growth there, economic growth there?

Mr. FORTUÑO. You should all know, historically, under section 936 and section 38 that will expire at the end of this year, the old section 931 is the predecessor to all of that, so if we were not to do this, for the first time in over 70 years, Puerto Rico's tax situation will be at a disadvantage as compared to the 50 States, whereas historically we have had some advantages. I haven't come here today to ask for any special treatment. I am asking that at the end of this year, when this tax advantage expires, that we indeed get a level playingfield.

Ms. HART. Okay. Most of these things when we look at them, and one of the things we are trying to analyze, I subscribe to the opinion in most cases these kinds of reductions or keeping the level of taxation low actually returns us money. You find more people will be employed; they will be paying other taxes. So, I am very interested in this, and I agree with you we shouldn't have a different rate for part of the United States, especially one that is facing an unemployment rate that is higher than everywhere else. So, I thank you for that. Representative Baldwin, I haven't seen this be-

fore, and I don't have any kids, so it wasn't one that really struck me, and I actually have not had friends complain about this, which is surprising, because I just went to my high school reunion, and they are all complaining about college costs. For a lot of families, I imagine that this does make a big difference. Do you anticipate, though, if an 18-year-old is an emancipated 18-year-old, lives away from home or is married, they would not get a tax credit, if they are emancipated, the parents?

Ms. BALDWIN. This would make this part of the law consistent with the earned income tax credit language.

Ms. HART. So, if that 18-year-old child actually is at home, and a dependent, then they, the family, would qualify. What if the child is actually a married 18-year-old and living with their own parents?

Ms. BALDWIN. Again, it conforms it with the way the Committee on Ways and Means in its wisdom has set it up. This stands as an anomaly by not covering young people under the age of 17. This would make it consistent with most of the other tax provisions that this Committee has crafted over the years.

Ms. HART. You include them until their 19th birthday, is that correct?

Ms. BALDWIN. Correct.

Ms. HART. Thanks. Finally, Mr. Keller, obviously, I like this bill. I am one of your cosponsors. Do you anticipate, and I am not sure if you have had a lot of discussions with employers regarding this, I am assuming that you have, are they generally supportive of expanding that type of a benefit? Do you find in an area where you are, where I think the economy is growing, that may be a way for them to entice more loyalty in their employees and bring people on, aside from maybe health benefits or a higher salary?

Mr. KELLER. Thank you for that question and let me first of all congratulate your attending your 10-year high school reunion.

Ms. HART. You are my friend for life.

Mr. KELLER. They are very excited about it. The reason is, this is a purely voluntary program for employers. Nobody is required, for example, to provide the current \$5,250 benefit to their employees, but some do, and appreciate that. Those employers who are willing to go the extra step, like Mr. Rosen that I mentioned, are real excited about it. No employer has to do it; it is purely voluntary. But for those employers who want to do the right thing by their employees' kids, they are really excited that they would now have the opportunity to do it.

Ms. HART. Did they notice a retention rate, for example? You are in an area, if I am not mistaken, at home that is pretty much a growing area. They have a lot of help wanted signs?

Mr. KELLER. Right. It is very helpful, frankly, to my area. We are the tourism capital of the world in Orlando, and the good side is that other folks pay our sales taxes. The downside is most of those jobs, frankly, are low-income, service-oriented jobs, where people work in hotels and theme parks, and it is their kids, the second-generation Americans, who really want the opportunity to go to college, and this would enable that dream to become a reality.

Ms. HART. It also—I am anticipating, I talk to a lot of employers about retention issues, especially in lower-wage jobs, and if they

can provide this kind of a benefit, they may find that their employees that they really want to keep who need to make a little bit more may find this benefit attractive.

Mr. KELLER. Sure. I would hope so. I would hope that Disney World would market this and say, hey, come to work here, we are going to pay for your kids education. Universal would say, hey, we are, too. I want to create a bidding war among my employers and get them to all do it.

Ms. HART. Right. It works for our universities. In Pennsylvania, for example, if you are employed by a State university, then you have the opportunity to have your children educated there, and I believe it is still free. So, that is a really good deal, and you find that jobs are really competitive there as a result.

Mr. KELLER. Absolutely.

Ms. HART. Thanks a lot, Mr. Keller. I yield back, Mr. Chairman.

Chairman CAMP. Thank you very much. Ms. Baldwin, I just had a question. Following up on what Ms. Hart mentioned, if an 18-year-old is away at school, would you expect that they would still qualify for the full credit, the parents?

Ms. BALDWIN. Again, preparatory school, or college?

Chairman CAMP. College. I am thinking of an 18-year-old that has gone off to college, he is really not living at home for most of the year. Is it your anticipation that under your legislation that the taxpayer could still claim a credit on that child?

Ms. BALDWIN. Hopefully, I am answering your question precisely, even if not directly, and that is the intent in drafting the bill is to bring this into conformity with the way your Committee has chosen to treat minors under the earned income tax credit and others that really together sort of form the fabric of how we provide income tax relief to working families, first the earned income tax credit with lower-income families, and then moving into the Child Tax Credit, more recently enacted and revised, for middle-class working families.

Chairman CAMP. All right. So, I think that would really depend on how much support the parents give the child in actual dollars and cents. All right. Thank you very much. Mr. Weller may inquire.

Mr. WELLER. Thank you, Mr. Chairman. I want to commend you for conducting these hearings and giving Members who are not Members of Ways and Means an opportunity to present their ideas. Certainly, I appreciate all my colleagues that are participating in today's forum, because we are seeing many, many good ideas as I read through the testimony today and listened to the testimony. I am going to direct my question to Mr. Fortuño, the Resident Commissioner of Puerto Rico, on your legislation that you have raised to this Congress. Of course, being a Member of this Committee, I had the opportunity to participate in the Jobs Creation Act and getting that created, and one of our ideas, of course, we felt if we want to attract greater investment in manufacturing in the United States, we want to lower the tax rate. Unfortunately, when the bill was drafted, our territories, including the Commonwealth of Puerto Rico, were excluded. So, I certainly commend you for your leadership on raising this issue. As you know, last night, as we worked on the reconciliation provisions for the budget, we passed a number

of extenders, as we call them, and one of them was an extension of the 936 credit which has been used in our territories, including Puerto Rico, as a way to attract investment. But that extension was targeted just to American Samoa as a way to assist their tuna industry.

As you are well aware, the Governor of Puerto Rico endorsed the extension solely for American Samoa and in fact issued a letter to Chairman Thomas which we put into the record last night noting his endorsement of that extension and saying that he was fine with it and was looking forward to your work and the work of this Committee to find better ways of attracting investment in Puerto Rico. The question I have for you, and clearly in your testimony and your presentation, you and I have talked about this, I am cosponsor of your bill, we are working together on this, you have really talked about the impact of the unfairness of it, where Puerto Rico has a 3 percent tax disadvantage beginning in the coming year for domestic manufacturing. Your proposal would extend this lower tax rate to Puerto Rico. Let me ask this: Has your proposal been endorsed by the economic development groups in Puerto Rico?

Mr. FORTUÑO. Definitely. First of all, I want to thank you for being a cosponsor of this bill and for your leadership in this process. On behalf of the U.S. citizens of Puerto Rico, we are all very thankful for your efforts as well. Certainly I have been working very closely with many of the main corporate citizens in Puerto Rico that are U.S. branches of mainland corporations, and my concern, to be very honest, is number one, that some of these jobs would leave the island just because of this tax situation, and number two, they will leave and go abroad. They will not stay in the USA. That is a concern I have, and I believe this would at least address this and level the playingfield.

Mr. WELLER. Have groups like your Chamber of Commerce and others actually endorsed the legislation?

Mr. FORTUÑO. Definitely. They are fully behind this. Actually, we have been receiving e-mails today from different main business groups fully endorsing the latest move into a bill that includes the same language that we had introduced earlier this year, so they are very excited that this will be happening.

Mr. WELLER. The Governor took time to send us a letter endorsing the extension of 936 for American Samoa. Has the Governor of Puerto Rico formally endorsed your legislation?

Mr. FORTUÑO. I have specifically asked him and his Secretary of Economic Development. I don't know officially here, but at least he has stated in a meeting earlier this year that he supports this initiative that we have.

Mr. WELLER. Chairman Thomas yesterday introduced legislation which incorporated much of your initiative. Can you share your views of what was put in Chairman Thomas' package that he introduced in the House yesterday?

Mr. FORTUÑO. Certainly, as far as Puerto Rico is concerned, it includes section 199, which will lower by 3 percent the tax rate for U.S. branches. On top of that, it also includes the rum "covered over," the returning to Puerto Rico and the U.S. Virgin Islands of the taxes—part of the taxes are collected here for the sale of rum, and those are two very important initiatives, and I am thankful for

the Chairman and the full Committee for their support for those two measures.

Mr. WELLER. When it comes to section 199, you are satisfied with the language that Chairman Thomas has included in the legislation which incorporates your idea?

Mr. FORTUÑO. Yes, indeed. We have worked very closely with him and Committee staff, and I must again thank the Committee staff as well for the work that we have been able to perform throughout this year so we have an end product that indeed addresses our concerns.

Mr. WELLER. I want to first commend you for your leadership. Your representation here is a breath of fresh air. You have been a real asset to this Congress, and of course, I salute you for your efforts. I just want you to know I am committed to working with you, as I know many of my colleagues are, to ensure that we bring fairness when it comes to manufacturing, whether it is located on the Island of Puerto Rico or elsewhere in the United States. We want to make sure that all domestic manufacturing is treated the same. So, I am committed to working with you to achieve that goal. My hope is now that Chairman Thomas has incorporated this into his legislation, that it will be successful in the coming months. Thank you very much. Thank you for being here today.

Ms. HART. [Presiding.] Thank you, Mr. Weller. Everyone has inquired. I would like to thank this panel very much for being with us. Your ideas are good ones, and hopefully, the Committee will be considering all of them shortly. I would like to call up the final panel for the hearing. There is yet another panel, Ms. Tubbs Jones, this is correct, but it will be quick, because I don't know that all of the witnesses are here. We have moved the Honorable Scott Garrett, a Representative from New Jersey, to the final panel. I would like to include him. Also with us is the Honorable Frank Wolf, Representative from the State of Virginia, the Honorable Phil Gingrey, Representative from the State of Georgia, Honorable Curt Weldon, a Representative from the greatest State in the union, the Commonwealth of Pennsylvania. I don't see the Honorable Dana Rohrabacher. He may join us.

Mr. ROHRABACHER. Who? Rohrabacher?

Ms. HART. He is right in front of me. He was hidden. Thank you, Congressman Rohrabacher, from the State of California. Ninety-five percent of the Honorable Joe Wilson, Representative from the State of South Carolina. So, we do have a full panel. I am actually going to begin with Scott Garrett, because he was from the other panel, and I am not sure if he can stay for the whole time. Then I will go in the standard order. Mr. Garrett, you have 5 minutes.

STATEMENT OF THE HONORABLE SCOTT GARRETT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. GARRETT. Thank you, Madam Chairman, and always also the Ranking Member, and all of the Members here to hear our proposals giving Members such as myself an opportunity to come before you and layout some concerns we have and ideas for reform. I would like to speak to you just briefly with regard to AMT, the

alternative minimum tax, which I know I do not have to give this Committee a background or education on. It is something that is important to my district and others as well. Originally created, it affected less than 1 percent of taxpayers, but as recently as this year, it is now affecting 3 percent of taxpayers. By the year 2010, 20 percent of taxpayers in this country—that is some 30-odd million Americans—will be subject to AMT. The AMT is already being regarded by many experts as one of, if not, the most serious problem facing American taxpayers. One of the aspects of it is that AMT parameters are not indexed for inflation as the rest of the Tax Code is, and that therefore creates what we know as bracket creep. The AMT simply pushes the middle-class families in my district and elsewhere around the country who normally would not be in it into the AMT parameters and have to pay the AMT tax. So, then, when you look at the Tax Code that we currently operate under, the credits, the incentives, things that were written into the Tax Code that would create incentives in fact to save more, invest more, college education, home ownership, all those incentives basically are coming under attack by the AMT.

This hits home for myself and the people from my State of New Jersey more than any other State in the country. The State of New Jersey has almost 5 percent of the population paying the AMT tax as of 2003; and this is on top of the fact that New Jersey, as many of you may know, has some of the highest income and other tax and local and county tax rates in the country, added to, of course, our very, very high property taxes. Now, very recently, the President's Commission on Tax Reform came out with somewhat sweeping reforms or proposals as to how to reform our current Tax Code, and they had several different ideas in there. But one thing that they unanimously agreed upon in their bipartisan panel, they emphatically called for the immediate repeal of AMT. They said that this is an arcane provision and it poses a grave threat to middle-income America and also to small businesses. So, I have proposed legislation, H.R. 703, that does two very simple things. It does not simply repeal the legislation outright, because there is a huge cost to that, but instead it does two things: First, it indexes the parameters of the AMT to take into account inflation. As I said, the current Tax Code has that elsewhere, and it is for that reason as people's incomes go up you do not necessarily see you go up into a higher tax bracket. AMT does not have that. They have no such break. If, however, we were to index it, that would take care of the problem to a large extent. If we were to do it right now and index it for inflation, most of the increases in taxpayers with liability over the coming decade would simply disappear. About five million Americans would owe AMT in 2010. That is a reduction of 80 percent from the estimated 30 million taxpayers who otherwise would owe it.

The second idea for the proposal of the legislation is to allow for the deduction of State and local taxes for the AMT. Again, the current system basically places an unfair burden on people in States such as mine and others that have very high State and local taxes, they are not allowed to deduct them with AMT. If we were allowed to do that in the AMT, that would eliminate the AMT impact on about 10 million taxpayers in the year 2010, roughly one-third of

those who would normally have to pay for it. Finally, complying with AMT is extremely difficult. AMT liability is determined on a very complex scale and system. By allowing people to move out of the system, that would be alleviated. Experts say that by moving people out of the system we would eliminate one of the greatest stifling of business growth in this country. In conclusion, then, we present two simple proposals to eliminate the problem for a vast number of Americans and a growing proportion, and that reform in AMT is needed now. I thank you again, the Committee, for your consideration.

[The prepared statement of Mr. Garrett follows:]

**Statement of The Honorable Scott Garrett, a Representative in Congress
from the State of New Jersey**

I would like to thank the Chairman and Ranking Member for arranging this hearing, for allowing Members like myself to come and testify about their different proposals and for generally being concerned about the need for significant tax reform in this country.

I am here today to discuss the Alternative Minimum Tax. The AMT is a tax system that runs alongside the traditional income tax. It was originally intended to cover a small number of wealthy taxpayers who were avoiding income taxes, but the AMT's reach now extends far beyond its initial intent in recent years.

Until recently, the AMT affected less than 1 percent of taxpayers. Since 2000 the AMT has steadily grown, affecting approximately 3 percent of taxpayers in 2005. If left unchanged, the AMT will penalize nearly 20 percent of taxpayers by 2010—some 30 million Americans in total. The AMT is already being regarded by many tax experts as one of, if not, the most serious problem facing American taxpayers.

Unlike the traditional income tax, the AMT's parameters are not indexed for inflation. That means that over time, economic growth and inflation cause a steady increase in the number of taxpayers forced into the AMT—commonly known as “bracket creep.” As nominal incomes rise along with inflation, the AMT's standard deduction shrinks in relative terms, affecting more middle-income taxpayers.

Now, the AMT punishes middle class home owning families with itemized deductions and exemptions on their federal income taxes. The very credits and incentives written into the tax code to encourage saving, home ownership, college education and marriage are under attack by the AMT. The tax's reach grows as the economy grows, because the AMT is not adjusted for inflation. As our nation's economy increases and more families meet the AMT threshold, the reach of the tax grows proportionately. Now, the AMT confounds parents, husbands, wives and friends across the country—especially in New Jersey.

In fact, according to the IRS, my home state of New Jersey ranks first in percent of filers in a state subjected to the AMT at 4.3%, as of 2003. As I am sure many of you know, New Jersey has some of the highest state and local taxes in the country, including our outrageous property tax rates.

Last week, the President's Commission on Tax Reform released two sweeping reform proposals. Each took a different approach to creating a simpler, fairer tax code. But both recommendations, made unanimously by the bi-partisan panel, emphatically called for immediate repeal of the Alternative Minimum Tax. This arcane provision poses a grave threat to middle income Americans and small businesses. Significant reform to it must be the centerpiece of any meaningful tax fix enacted by Congress in the coming months.

Fortunately, the AMT problem has been delayed by stop gap measures enacted by Congress to temporarily alleviate burdens on AMT payers. While these measures do not address the underlying problems of the AMT, Congress has occasionally raised the income exemptions on the AMT to ease the burden on middle class families. Currently, the baseline AMT exemption is pegged at a gross income of \$58,000 following deductions. Next year, when temporary stop gap expires, that level will drop to \$45,000; bringing millions more home-owning, property-tax paying families under a complex additional tax burden. I have introduced legislation; the **AMT Middle Class Fairness Act of 2005, H.R. 703**, to correct the underlying issues of the AMT.

My legislation contains two important provisions:

First, it indexes the parameters of the AMT to take into account inflation. Indexation under current law prevents regular tax liabilities from growing simply because

incomes keep pace with price inflation, but AMT liabilities have no such break. If AMT parameters, were indexed for inflation, most of the increase in taxpayers with AMT liability over the coming decade would disappear. About 5 million taxpayers would owe AMT in 2010, a reduction of more than 80 percent from the estimated 30 million taxpayers who would otherwise owe AMT in that year.

It also allows those who would still fall subject to the AMT to be able to deduct their state and local taxes from the AMT. Regular taxpayers who itemize on their returns can claim a deduction for state and local tax, including property tax and state income tax. However, these deductions are not allowed under the AMT, and moreover, residents of places where state and local taxes are high are more likely to be subject to the AMT. CBO estimates that allowing taxpayers to deduct state and local taxes for AMT purposes would eliminate the AMT impact for about 10 million tax units in 2010—roughly one-third of those who would pay AMT in that year under current law.

Complying with the AMT is extremely difficult. AMT liability is determined on a complex rate scale once designed to confound millionaires and their accountants attempting to cheat the IRS. Almost every analysis available on the AMT takes a highly critical view of its effectiveness as a revenue raiser, and its ability to stifle small business growth is well documented. The AMT as now constituted is not progressive taxation; it is excessive taxation.

Our current tax code is a perverted outgrowth of the income tax enacted in 1913 to equitably meet the needs of a broad and growing nation. But the federal tax code is now the elephant in the room of our economy; so big and so unruly we cannot honestly speak of meaningful reform without first mustering the courage to push the elephant out the door. Reform has been too long-coming and the AMT is the tax code's most glaring and egregious flaw. It is a prime example of Washington regulation run amok. Congress has a responsibility to correct the problem. Congress must lead the charge of reform.

Thank you again to all those responsible for putting this hearing together and for inviting me to testify on this important topic. Tax reform for this nation is vital, fixing the AMT is crucial. I believe that my legislation, H.R. 703 is an effective and workable solution and ask that the committee look to it when devising reform options.

[The prepared statement of Ms. Lowey follows:]

**Statement of The Honorable Nita Lowey, a Representative in Congress
from the State of New York**

Good morning, Mr. Chairman, Ranking Member McNulty and distinguished Members of this Subcommittee. I appreciate the opportunity to speak with you.

The Alternative Minimum Tax—or AMT—was designed in the 1960's to ensure that the wealthiest Americans still paid their fair share of taxes. I support this objective. It was a good idea then, and it remains a good idea today. However, failure to adjust the AMT to inflation has created a mammoth burden on working families, especially in my Congressional district and the state of New York.

In the hearings that led to the creation of the tax, Treasury Secretary Joseph Barr testified before the Joint Economic Committee that 155 Americans with incomes above \$200,000 in 1967, including 21 with incomes above \$1 million, paid no federal income taxes that year. In today's dollars that would translate to individuals with incomes of over \$1.1 million and \$5.3 million respectively paying no taxes.

Unfortunately, what started as a way to keep taxes fair has over time become a burden on ordinary, middle-class families. Three million taxpayers paid the AMT in 2004. If there is no change to current law, 21 million taxpayers will be affected in 2006. Even if the current exemption limits are extended into 2006, the AMT will continue to engulf more families. The fact is that the AMT is rapidly becoming a n MCT—a middle class tax.

New Yorkers, the residents of my home state, are already among the hardest-hit victims of the AMT because of our significant local and state taxes. Over 300,000 families in New York were affected in 2003, and we are second in the country in the total number of taxpayers affected by the AMT.

It is clear the AMT is no longer fulfilling its purpose of ensuring that a few of the extraordinarily wealthy pay their taxes. Instead, it is becoming a great financial burden on millions of average and middle-class families. That is why Steve Israel and I have introduced legislation to restore the original purpose of the AMT. It would raise the income exemption from the current joint filer level of \$58,000 to

\$100,000 and index this amount to inflation—guaranteeing that no family with an income below \$100,000 would be penalized.

I was pleased last year when Congress took action to temporarily stave off scheduled changes in the AMT that would have hurt more families, but I am disappointed that we did not take steps to permanently fix this problem.

Unless Congress acts soon, even more hard-working families in our country who are struggling with increasing housing prices, growing property taxes, excessive health care costs, and the skyrocketing cost of college tuition will be subjected to this exorbitant tax. Even the current AMT exemption of \$58,000 for joint returns and \$40,250 for unmarried taxpayers is extremely low for many families.

The Israel-Lowey bill would permanently fix the AMT by lifting the exemptions to levels that will ensure that only the wealthy pay this tax. It would index those levels to inflation so that in 10 or 20 years, Congress is not once again faced with the problem of a creeping tax that is expensive to fix but impossible to ignore.

The AMT was intended to keep the tax code fair, but because of neglect on the part of Congress, it has created a system of inequality. It is time to bring the original spirit of the AMT in line with today's economic realities and make protecting our families a permanent part of the tax code. I look forward to working in a bipartisan way with my colleagues in Congress to solve this problem once and for all. Thank you.

Ms. HART. Thank you, Mr. Garrett. I would ask the staff, please, if you could adjust the names of Mr. Garrett and Mr. Wilson appropriately; and I will call on Representative Wolf for his testimony.

STATEMENT OF THE HONORABLE FRANK R. WOLF, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. WOLF. Thank you very much for the opportunity to testify before the Committee on what I believe is a straightforward bill to provide relief for millions of uninsured Americans. I would like to share with you about how one community free clinic in my district is caring for the uninsured. While certainly not to the same extent as localities closer to the affected region, northern Virginia did still take in a number of Hurricane Katrina victims. As many regions probably found, many of these people needed medical care that they often could not afford. The Loudoun Community Free Clinic in northern Virginia was able to help. A woman with diabetes and in dire need of insulin was treated at the clinic and given a 30-day supply of insulin. Her granddaughter was also helped with a 30-day supply of thyroid medicine. The clinic also aided a single woman as well as a family of four who all needed medication to treat skin rashes produced by toxic waters left by the hurricane. But the clinic can only operate and do its good work if there are doctors who volunteer to staff the clinic. Earlier this year, the Loudoun Community Free Clinic was forced to turn patients away one evening because there were not any doctors. Loudoun County is the fastest-growing outer suburb in northern Virginia and, quite frankly, in the country. The growth and the rapid increase in the cost of living has stretched the government-sponsored safety net programs. As a result, community free clinics have increasingly become critical parts in responding to the needs of those who are seriously ill and cannot pay for a doctor or medicine or other health costs. Earlier this year, I introduced the Charity Care for the Uninsured Act. While the legislation alone will not solve the problem of the uninsured, I believe it will help strengthen community safety nets like community free clinics in Virginia for those in need and

will allow doctors recognition for willingness to give back to the community.

The Charity Care for the Uninsured Act would provide a personal income tax credit of up to \$2,000 for doctors who provide 25 to 50 hours of uncompensated, pro bono charity care to the uninsured in a single calendar year. This legislation would encourage the many physicians who have treated patients who are not able to pay, either to their offices or to community clinics, to continue to do so. In the interest of time, with the other Members here, there is much more that I could say, but, basically, it is a tax credit for doctors, many to get them to participate. Those we could not, particularly in rural areas—we have a free clinic in Warren County, one in Frederick County and now one in Loudoun County. We would not have health care for the poor people if we did not have the doctors. So, this would be an incentive to bring the doctors in. I would ask if I could just submit this for the record, if I may, Madam Chair.

[The prepared statement of Mr. Wolf follows:]

Statement of The Honorable Frank R. Wolf, a Representative in Congress from the State of Virginia

Mr. Wolf. Thank you for the opportunity to come testify before the Committee on what I believe is a very straight forward bill to help provide care for the millions of uninsured Americans. I'd like to share with you about how one community free clinic in my district is caring for its uninsured. While certainly not to the same extent as localities closer to the affected region, northern Virginia did still take in a number of Hurricane Katrina victims. As many regions probably found, many of these people needed medical care that they often could not afford.

The Loudoun Community Free Clinic, in northern Virginia, was able to help. A woman with diabetes, and in dire need of insulin, was treated at the clinic and given a 30-day supply of insulin. Her granddaughter was also helped with a 30-day supply of thyroid medicine. The clinic also aided a single woman as well as a family of four who all needed medication to treat skin rashes produced by toxic waters left by the hurricane.

But the clinic can only operate and do its good work if there are doctors who volunteer to staff the clinic. Earlier this year, the Loudoun Community Free Clinic was forced to turn patients away one evening because there weren't any doctors. Loudoun County is a fast growing outer suburb in northern Virginia. The growth and the rapid increase in the cost of living has stretched the government sponsored safety net programs. As a result, community free clinics have increasingly become a critical part of responding to the needs of those who are seriously ill and cannot pay for a doctor, medicine, and other health costs.

Earlier this year, I introduced the Charity Care for the Uninsured Act. While this legislation alone will not solve the problem of the uninsured, I believe it will help strengthen community "safety nets," like the community free clinics in Virginia, for those in need and will allow doctors recognition for willingness to give back to their communities.

The Charity Care for the Uninsured Act would provide a personal income tax credit of up to \$2,000 for doctors who provide between 25 and 50 hours of uncompensated, pro bono charity care to the uninsured in a single calendar year. This legislation would encourage the many physicians who have treated patients who were not able to pay, either in their offices or in community clinics, to continue to do so.

A personal tax credit like that outlined in the Charity Care for the Uninsured Act of 2005 would recognize the vital contribution these doctors are making and encourage them to continue to volunteer their time. A personal tax credit would provide communities with an important tool to help community clinics recruit physicians. It will also help motivate countless specialty doctors to take community clinic referrals. Free clinics have contributed to reduced emergency room (ER) utilization among the uninsured, helping save taxpayer dollars. A safety net in which the uninsured can access specialists and medications will improve their health and guard against catastrophic illnesses and trips to the ER.

All of the cost savings and health benefits can be traced back to the commitment and the compassion of the doctors and community partners, and their concern for

those who cannot afford insurance. The Charity Care for the Uninsured Act of 2005 recognizes and encourages these caring acts made to help those who need a helping hand. This legislation can be an important tool for communities as they seek to strengthen or build the health care safety net available their uninsured residents.

I'd like to invite my friend and colleague Dr. Gingrey to talk about this issue from a physician's perspective.

Dr. Gingrey. I come before the committee to testify in support of Rep. Wolf's legislation, the Charity Care for the Uninsured Act. As a physician for nearly 30 years, I know first hand the time and energy doctors all across this country donate to charity care. As physicians, we are responsible to care for any and all individuals that need our help and that is exactly what you see health care professionals doing in neighborhoods all over America.

Over Labor Day weekend, I had the unique opportunity to volunteer in a Red Cross shelter in Baton Rouge, Louisiana after Hurricane Katrina. What I saw there was the best of the human spirit. There were stories of human compassion and generosity from health care professionals from all parts of the country. They had all come to lend their time and support to folks that it needed it the most. The best part about that experience was the realization that this was happening in shelters all over the Gulf coast; doctors coming together showing individuals; that in America there are no strangers.

You see this same selfless attitude from physicians in the local community health center. Health care professionals giving of their time and resources to help those in our country that can't afford and don't have access to quality care. These individuals need regular physicals and a primary care doctor that will help them manage their health. In some communities this is only possible when physicians decide to work late and donate their time to care for the neediest Americans.

That is why I support this legislation, because we need these medical care providers on the "front lines" of our health care system to ensure all Americans get the care they need. We need doctors that will advise and teach individuals how to successfully manage their hypertension or high cholesterol so they don't have to visit the emergency room at 3 a.m. or endure an open heart surgery. Investing in preventative care is always the best option for the patient, but it is also the best option for our health care system's pocketbook.

I want to thank Rep. Wolf for inviting me to testify with him on behalf of this legislation and thank the committee for their time.

Mr. Wolf. I hope the Committee takes action on H.R. 3614, the Charity Care for the Uninsured Act of 2005. Again, thank you for allowing myself and Dr. Gingrey to testify on this legislation.

Ms. HART. Absolutely. Thank you, Representative Wolf. Going in, I guess, the order that you are sitting, because that is the order we have you in is—that is correct—Dr. Gingrey.

STATEMENT OF THE HONORABLE PHIL GINGREY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. GINGREY. Chairman Hart, Representative Larson and Members of the Subcommittee on Select Revenue Measures, I want to thank you for allowing me to come before you today. For the sake of honesty in advertising, I should offer a disclaimer that I am not a tax attorney. But in light of the recent Kelo decision and given my background as a physician, I have a few tax proposals that I would like to highlight for the Committee's consideration. In fact, I have three. First, the Supreme Court's recent decision liberalizing the government's power of eminent domain created an uproar about the country and the Congress. Thankfully, the House recently passed by an overwhelming margin H.R. 4128, the Private Property Rights Protection Act, to curb the misuse of eminent domain. However, even if H.R. 4128 is signed into law, there will still be individuals who will lose their homes or businesses through the use of eminent domain and who will be potentially liable for capital

gains taxes on a sale that they did not choose to make. Therefore, on July the 13th, 2005, I introduced H.R. 3268, the Eminent Domain Tax Relief Act of 2005, to exempt individuals from paying capital gains tax on the sale of any property turned over to the government through the use of eminent domain. Currently, the law allows for such an exemption if the gain is reinvested in a similar property. While this exemption does provide an option to avoid paying capital gains taxes on property converted through eminent domain, it alone is an unacceptable option.

I can think of numerous examples in which this option is simply impractical and therefore unfair. For instance, a businessowner whose property is condemned and sold through eminent domain has no guarantees that his or her business will maintain its success in a new location and thus changed market. For homeowners who lose their property to eminent domain, they may not want to buy another house but rather rent or move in with a family Member to save money. I fully support the idea of encouraging reinvestment and understand its importance to our economy. However, in this instance, there is a fundamental principle that should trump all other concerns. People should not be punished by the Tax Code for a choice that they did not make or even wish to make. Second, Madam Chairwoman, I also come here today to discuss a matter that we see every day and read in the headlines: the rising cost of health care. More and more businesses are no longer able to afford health care benefits for their employees, too many Americans are uninsured, health care premiums continue to rise each year, and the neediest of our country aren't given the access to the quality care they deserve. There are many ways to tackle the problem of skyrocketing health care costs, but today I am here to focus on two, the first of which is health care information technology. Health care IT holds much promise in raising the quality of care in our country.

A recent RAND study reveals that a health IT system that is implemented correctly and widely adopted would save the American health care system more than \$162 billion annually. The key to this report, though, is that in order to cash in on this potential savings, we need incentives for physicians to buy quality systems that are capable of interoperability. My legislation accomplishes this by increasing the deductions offered under section 179 of the Tax Code for health care providers that purchase an electronic health record, EHR, system. Under the current Tax Code, small businesses can deduct around \$100,000 of the cost of qualified business expenses that are placed into service that tax year. My legislation simply increases this maximum deduction to \$250,000 for health care providers that purchase an EHR system. In the interest of time, I will move right to the last piece of legislation. I know I am taking a little more time than allotted. But the other piece of legislation I would like to highlight is a one-time, refundable tax credit of \$300 to those individuals that prepare an advance directive, whether it is a living will or a medical power of attorney. I would like to bring the Committee's attention to the following alarming facts: It has been shown that medical care at the end of life consumes almost 15 percent of our country's health care budget and nearly 30 percent of the Medicare budget. According to an article in the Journal

of American Medical Association, it is estimated that hospice care and advance directives can save between 25 and 40 percent of health care costs during the last month of life.

For these reasons, the Federal government needs to provide incentives to the American public to prepare advance directives. It is not only in the best interest of patients and families but also our country's health care system and the American taxpayer. The tax credit's refundability is essential to this legislation. For years, lower-income Americans haven't been able to afford prescription drugs that would help them manage their disease and keep them healthy. This has led to the heart-breaking scenarios of ICUs across our country where the sickest and neediest of individuals are being kept alive through any and all means, whether or not that is what they want. This is simply a \$300 tax credit, and it is refundable for those individuals who have an advance directive. So, in closing, I again want to express my gratitude for this opportunity, respectfully ask your consideration of the initiatives that I laid out today. Madam Chairwoman, I am prepared to respond to any questions or comments on these legislative proposals.

[The prepared statement of Mr. Gingrey follows:]

**Statement of The Honorable Phil Gingrey, a Representative in Congress
from the State of Georgia**

Chairman Camp, Ranking Member McNulty, and Members of the Select Revenue Measures' Subcommittee. On behalf of the citizens of Georgia's Eleventh Congressional District, I first want to thank you for allowing me the opportunity to come before you today and discuss a few tax initiatives and accompanying legislation that I have introduced in the 109th Congress.

For the sake of honesty in advertising, I should offer the disclaimer—as I am sure most of you are already know—I am not a tax attorney but in light of the recent *Kelo* decision and given my background as a physician, I have a few tax proposals that I would like to highlight for the consideration of this Committee.

First, as you are all well aware, the Supreme Court's recent decision liberalizing the government's power of eminent domain caused an uproar throughout this country, unifying people of all backgrounds, of all income levels, and of all political beliefs. Thankfully, the House recently passed by an overwhelming margin H.R. 4128, the Private Property Rights Protection Act, to curb the use of eminent domain for economic development.

However, even if H.R. 4128 is signed into law, there will still be individuals who will lose their homes or businesses through the use of eminent domain and who will be potentially liable for capital gains taxes on a sale that they did not choose to make.

Therefore, on July 13, 2005, I introduced H.R. 3268, the Eminent Domain Tax Relief Act of 2005. This bill will exempt individuals from paying capital gains tax on the sale of any property turned over to the government through the use of eminent domain. As I have often said when discussing this bill, there should be no taxation on government condemnation.

Currently, the law allows for such an exemption if the gain is reinvested in a similar property. While this exemption does provide an option to avoid paying capital gains taxes on property converted through eminent domain, it alone is an unacceptable option.

I can think of numerous examples in which this option is simply impractical and therefore unfair. For instance, a business owner whose property is condemned and sold through eminent domain has no guarantees that his or her business will maintain its success in a new location and thus changed market. For homeowners who lose their property to eminent domain, they may not want to buy another house. They may decide to rent or to move in with a family member and save their money.

I fully support the idea of encouraging reinvestment and understand its importance to our economy; however, in this instance, there is a fundamental principle that should trump all other concerns: people should not be punished by the tax code for a choice that they did not make or even wish to make.

Mr. Chairman, while I could continue on this subject longer, I would like to move on to my second point and discuss a matter that we see every day and read in the headlines: the rising cost of health care and what it means to Americans in this country.

More and more businesses are no longer able to afford health care benefits for their employees, too many Americans are uninsured, health care premiums continue to rise each year and the neediest of our country aren't given the access to the quality care they deserve.

There are many ways to tackle the problem of skyrocketing health care costs, but today I am here to focus on two. The first of which is health care information technology. Health care information technology, most everyone agrees, holds much promise in raising the quality of care in our country. However, a recent RAND study reveals that a health information technology system that is implemented correctly and widely adopted would save the American health care system more than *\$162 billion annually*.

The key to this report, though, is that in order to "cash in," on this potential savings we need incentives for physicians to buy quality systems that are capable of interoperability. My legislation accomplishes this by increasing the deductions offered under section 179 of the tax code for health care providers that purchase an EHR system. Under the current tax code, small businesses can deduct around \$100,000 of the cost of qualified business expenses that are placed into service that tax year. My legislation increases this maximum deduction to \$250,000 for health care providers that purchase an EHR system.

In addition, small businesses currently have a maximum threshold of \$400,000 for qualified equipment purchases in any given year. My legislation would increase that to \$600,000, again only for health care professionals that purchase an EHR system.

The logic behind these changes is that physicians, like all small business owners, look at what the tax code can offer them as they consider purchasing equipment for their business.

These proposed adjustments will go a long way in getting these systems in more physician's offices by increasing the tax deductions allowed in the first year. This is an important selling point considering the fact that the first year is when physicians are learning and implementing the new system and is the period of time when they will see a decrease in their productivity. It also better represents the actual cost of an EHR system.

For example, the cost of a system for an average practice that includes between 4–6 physicians can be as much as \$200,000. This, of course doesn't include any other medical equipment that they may need to purchase that year. Therefore, instead of distributing funds through grants, a more effective way to get health care information technology in every physician's office around the country is to appeal to their business instincts and allow the tax code to provide their incentive.

The other piece of legislation I would like to highlight is a one time, refundable tax credit to those individuals that prepare an advance directive, whether it is a living will or a medical power of attorney.

I would like to bring the committee's attention to the following alarming facts: it has been shown that medical care at the end of life consumes almost 15% of our country's health care budget and nearly 30% of the Medicare budget. However, according to an article in the Journal of the American Medical Association, it has been estimated that hospice care and advance directives can save between 25% and 40% of health care costs during the last month of life.

It is for these reasons the federal government needs to provide incentives to the American public to take action and prepare advance directives. It is not only in the best interest of patients and families, but also our country's health care system and the American taxpayer.

The fact that the tax credit is refundable is an essential aspect to this legislation. Due to the fact that lower-income Americans often are unaware or unable to adequately prepare for end-of-life medical decisions we need to ensure that their wishes are honored and valuable healthcare resources are used where they are needed and wanted.

In closing, I again want to express my gratitude for this opportunity and respectfully ask for your consideration of the initiatives I laid out today. Mr. Chairman, I am prepared to respond to any questions or comments on these legislative proposals.



Ms. HART. Thank you, Dr. Gingrey; and you did finish in the time allotted. Mr. Weldon.

STATEMENT OF THE HONORABLE CURT WELDON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. WELDON. Thank you, Madam Chair, and my distinguished friend, Mr. Larson. It is a pleasure to be here. I would like to submit my statement for the record. Seventeen years ago, I was a freshman Member of Congress; and this building was on fire. I was located one floor above this particular hearing room when Jim Wright's—the Speaker at the time—office was completely engulfed in a blaze. In fact, it was six o'clock at night; and as a former fire chief I responded to make sure everyone was out. When I entered the building—and it totally gutted the entire Speaker's complex in the corner suite here of Longworth—I found out the building was totally unprotected: no detectors, no automatic recall of elevators. As Members of Congress came screaming down the stairs—Helen Bentley, carrying her dog, and Arthur Ravenel screaming, “where I do go next”—we realized this building had no protection whatsoever. It was totally vulnerable. When we took action, I introduced a privileged resolution, which passed, which created a commission that resulted in every room, as you see above, being sprinklered. That didn't happen because it was logical. It happened because we had an incident; and thank God no one was injured, no one was killed. Unfortunately, in America each year we lose almost 4,000 people because of fires. Most of them are in single-family buildings, but many of them are in nursing homes, they are in schools, they are in high-risk occupancies.

The problem is that, unlike the government, which can go and retrofit every building—which we did as a result of Wright's fire, which retrofitted every one of our offices. You have sprinklers in every office in every building on the Hill—House and Senate and Capitol—the average businessowner cannot afford to go back and retroactively sprinkler their building. Therefore, up in Rhode Island, in Jim Langevin's district, we lost a hundred people because, when a fire broke out in a small nightclub, they couldn't get out of the building. There was no means of extinguishing the fire; and, as a result, a hundred young people died. Down in Kentucky a few years ago, we lost 260 people in the Beverly Hills supper club. When a building is sprinklered, according to National Fire Protection statistics, we have never had a multiple loss of life in any building that has been sprinklered. So, if we want to find a way to reduce this massive loss of life every year that occurs in America, it is logical that we should do what the Federal government did when we sprinklered these buildings. But because local businesses can't afford it, we have got to find a way to encourage them, and that is what my bill does.

My bill, which I have introduced with Congressman Jim Langevin from Rhode Island, provides an increased ability to depreciate the cost of installing sprinklers from 39 years to 5 years. If you take that increased ability to write off the cost of installing a sprinkler system, coupled with the increased savings on the insurance policy that a small business has, they are able to pay for

the system in a matter of 2 years. Studies have shown that, if that be the case, we would have every major-risk, high-risk building in America sprinklered within a matter of 2 to 3 years because it would be cost effective. Now if we don't take this action, and if we force, through regulation as some want to do, nursing homes and hospitals to go back and retroactively install sprinklers, that is going to result in increased cost to Medicare and Medicaid. So, we pay the bill on the other end. What I am encouraging is a piece of legislation that 142 of our colleagues have sponsored. Every one of you are a co-sponsor of it, including the Members that were here before you. This legislation, which Rick Santorum has introduced in the Senate, would allow us to provide a mechanism to get property owners with nightclubs and nursing homes and schools to be able to write off the cost of that, get the increased insurance savings from the reduced premiums and, therefore, do what, in fact, is logical and what we did with all of these buildings on the Hill.

Every major fire and EMS group in the country—and I will list them all for you for the record, but I won't go through them publicly—every one of them, including all the major fire and EMS organizations representing 1.2 million firefighters and paramedics in 32,000 departments across America, have made this legislation one of their top priorities. Each year, we get more co-sponsors, with 142 this year, including 15 Members of the Committee on Ways and Means. I would ask for your support, which you have already done with your co-sponsorship, in encouraging the Chairman and the Ranking Member to move this legislation so that we can save lives and help protect property. I thank you for your consideration. I am prepared to answer any questions you might have; and, again, I would say I urge you to support H.R., the Fire Sprinkler Incentive Act of 2005.

[The prepared statement of Mr. Weldon follows:]

**Statement of The Honorable Curt Weldon, a Representative in Congress
from the State of Pennsylvania**

Thank you for the opportunity to testify before the Committee on H.R. 1131, The Fire Sprinkler Incentive Act of 2005. Passage of H.R. 1131 would serve to reduce the tremendous annual economic and human losses that fire inflicts each year. This bill currently has 140 cosponsors, 15 of which are members of the Ways and Means Committee.

From the time a fire begins, detection can be reported within the first 3 minutes. Once dispatched, firefighter response begins at 4 minutes, with anticipated arrival on scene and suppression set up within 10 minutes. By this time, the level of combustion has grown exponentially, leading to flashover two minutes earlier. Flashover is the level of combustion that engulfs the entire room in flames—an environment that no person can survive.

Meanwhile, the 70% of smoke alarms that are functional (30% do not work, mostly due to dead or non-existent batteries) have alerted building occupants to escape through pre-planned evacuation routes. Unfortunately, the elderly, unattended children and the mentally or physically disabled are often unable to do so.

Fires in structures occur like clockwork at a rate of one a minute, every hour of every day. In the U.S., fire departments responded to 526,000 structure fires in 2004 (out of a total of 1.55 million fire calls and a total of 22.6 million emergency response calls of all types). These structure fires accounted for nearly all the civilian fire deaths (3,305 in 2004), nearly all the civilian fire injuries (15,525 in 2004), nearly all the damaged property (\$8.3 billion in 2004), and dozens of fireground deaths of firefighters. This translates into a fire department response to a structure fire every 60 seconds and to a fatal structure fire every 3 hours. And the best available evidence consistently and clearly shows that most of that loss could have been prevented by reliable, effective fire sprinklers.

The solution resides in automatic sprinkler systems that are usually triggered

within 4 minutes of ignition when the temperature rises above 120 degrees. The National Fire Protection Association (NFPA) has no record of a fire killing more than two people in a fully operational sprinklered public assembly, educational, institutional or residential building. Furthermore, sprinklers are responsible for dramatically reducing property loss.

Fire sprinklers are the single most effective method for fighting the spread of fires in their early stages—before they can cause severe injury to people and damage to property. There are literally thousands of high-rise buildings built under older building and fire codes that lack adequate fire protection. Ironically, billions of dollars were spent to make these and other buildings handicapped accessible; however people with disabilities now occupying these buildings are not adequately protected from fire.

Last year, representatives of the health care industry testified that there are approximately 4,200 nursing homes that need to be retrofitted with fire sprinklers. They further testified that the billion dollar-plus cost of protecting these buildings with fire sprinklers would have to be raised through corresponding increases in Medicare and Medicaid.

In addition to the alarming number of nursing homes lacking fire sprinkler protection, there are literally thousands of assisted living facilities housing older Americans and people with disabilities that lack fire sprinkler protection.

In early 2003, the “Station” nightclub fire in Rhode Island killed 100 occupants. Today there are still thousands of similar nightclubs and entertainment venues that need to be retrofitted with fire sprinklers.

Building owners do not argue with fire authorities over the logic of protecting their buildings with fire sprinklers. The issue is cost. Passage of H.R. 1131 would drastically reduce the staggering annual economic toll of fire in America and thereby dramatically improve the quality of life for everyone involved.

Benefits of the Fire Sprinkler Incentive Act also include lower local fire department costs, increased loan activity, reduced insurance claims and premium costs, larger numbers of retrofitting and installation jobs, and generation of payroll tax revenue. Most importantly, this bill saves lives.

H.R. 1131 encourages property owners to install fire sprinkler systems by reducing the tax depreciation time on nonresidential real property from 39 to only 5 years.

The installation of fire sprinklers is a high priority for the fire service and others who are concerned with the protection of American lives and property. The following organizations have already pledged their support for this Act:

All 45 members of the Congressional Fire Services Institute National Advisory Committee, which includes all major National Fire Service Organizations (by resolution)

National Fire Sprinkler Association
 American Fire Sprinkler Association
 Mechanical Contractors Association
 American Insurance Association
 Independent Insurance Agents and Brokers of America
 The Associated General Contractors of America
 The Lightning Safety Alliance
 American Society of Safety Engineers
 American Health Care Association
 Underwriters Laboratories, Inc.
 International Codes Council
 American Institute of Architects
 Building Owners and Managers Association
 Home Safety Council

Year after year, the facts stare us square in the face, costing thousands of lives and billions of dollars, but no efforts are made to install sprinkler systems in older buildings or those in jurisdictions that do not require fire sprinklers, due to one reason: cost.

With the support of every fire service and related association in America, Representative James Langevin and I introduced the Fire Sprinkler Incentive Act, H.R. 1131. This bill provides a tax incentive for businesses to install sprinklers through the use of a 5 year depreciation period, as opposed to the current 27.5 or 39 year period for installation in residential rental and non-residential real property, respectively. While only a start, this important legislation will help reduce the senseless losses seen in nursing homes, nightclubs, office buildings, apartment buildings, manufacturing facilities and other for-profit entities.

Ms. HART. Thank you, Representative Weldon. Representative Rohrabacher.

**STATEMENT OF THE HONORABLE DANA ROHRABACHER, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALI-
FORNIA**

Mr. ROHRABACHER. Thank you very much; and I appreciate this opportunity to speak to you about my bill, H.R. 1024, the Zero Gravity, Zero Tax Act of 2005. Outside the Science Committee—I don't know how many know this, but in the Science Committee people know that I have been a long-time advocate of commercial space activities; and although it is not apparent to the general public at this time, the American space program is currently headed for a crisis. The NASA Administrator Mike Griffin has made it clear in recent statements that entrepreneurial firms in the private sector are an essential part of the equation in dealing with the looming crisis as well as achieving the President's vision for space exploration. This, of course, brings us to taxes and space and commercial space in the private sector. Action on H.R. 1024 might make the difference between a successful new industry and a failed industry in terms of one that is aiming at the stars, so to speak. It needs to be recognized that companies involved with government-based space activities face many challenges, including unpredictable budgets and limited profit expectations. Establishing space as a tax-free zone for new investment will make all the difference in attracting investments to the space frontier. If enterprise zones work on Earth, they can work in space.

House Resolution 1024 has four sections. The primary focus for the bill is the first section, which excludes space-based income from gross income. It is important to note that income exclusion is not allowed for activities related to telecommunications, weather and Earth-observation satellites and services provided before the enactment of this bill. A related provision of the bill is that space-manufactured products will be excepted from Federal excise, imposts and duties and any other Federal tariffs. U.S. companies should not be penalized for expanding manufacturing into outer space. As opposed to the rampant outsourcing of manufacturing to other countries, we should consider our borders as extending into space and encourage our companies to look up. The first two provisions are enacted for several years; and then, however, they will be phased out over a 10-year period. A third provision of the bill allows an investment credit for qualified stock purchases. Such stock must be for domestic C corporations that have gross receipts less than \$100 million and such that at least 70 percent of those receipts come from space activities. This should encourage investment in medium-sized companies involved in space work and will also allow ways for these businesses to generate the initial capital needed for research and development.

The final provision which I am proposing provides an exclusion for capital gains from the sale of stock in corporations that do 90 percent of their work in space-related activities. Like the previous provision, this should encourage individual investment in space-re-

lated corporations. Now there may be concerns that H.R. 1024 would reduce Federal revenues, but here is the most important thing to think about—and, of course, we all know that space-related business is good in that it develops technologies that will be useful, and so there is a useful social function. It also expands the horizons of our youth. But what is the most important element of what I am suggesting in these tax incentives is the Federal government will get nothing from these new space industries unless there are new space industries. So, we are losing absolutely nothing by providing for a tax environment which will permit businesses to be established and aimed at doing their business in space. We will, again, have all of the spin-offs in terms of technology, in terms of innovative thinking for our youth, et cetera, and new technologies for the rest of our industries, and it won't cost us anything, and we will have thriving businesses because those businesses won't exist unless we have this type of incentive. I believe the more significant cost is of not enacting this legislation in the fact that there will be many missed opportunities. Our goal must be to encourage sustained economic enterprise in the vast reaches of space—that is what tomorrow is all about—and to inspire and challenge future generations to join this venture. This is a forward-looking piece of legislation. I don't think it will cost us anything in revenue for the Federal Government. It is worth a try, and it will keep America a leader in space technology. Thank you very much.

[The prepared statement of Mr. Rohrabacher follows:]

Statement of The Honorable Dana Rohrabacher, a Representative in Congress from the State of California

Mr. Chairman, thank you for giving me the opportunity to speak to you about my bill, H.R. 1024, the "Zero Gravity, Zero Tax Act of 2005." I have been a long-time advocate of commercial space activities.

Certainly, NASA has an important role to play in the development of space. Recently, Mike Griffin, the NASA Administrator, has described the work of NASA as laying down the highway infrastructure to outer space on which commercial business will take place in the future. Rightly so; NASA must lead and pave the way. However, are we creating a business friendly environment that can foster commercial development to follow NASA's lead into the next frontier?

Throughout its history, America has had a deep fascination with the frontier and the unknown, a fascination that in the last century, at least, has included space. Since the onset of the Cold War, space has also had high geopolitical significance. Americans had to be bold, courageous and we had to win the race to space. We rose to that challenge and the success rippled through the math, science, technology and engineering communities. Unfortunately, we have not followed through on that accomplishment. We have been handicapped by our own success, unable to shed the ideas of yesterday in order to create new ways of reaching our goals. As we've seen from our past pursuits, success in the exploration of the space frontier will generate a significant return on our investment, especially in the minds and dreams of the coming generations. NASA needs the energy of fresh minds, innovation and competition that can reliably be found in the private sector.

NASA Administrator Mike Griffin has made clear in recent statements that entrepreneurial firms are an essential part of his equation dealing with the costs of implementing the President's Vision for Space Exploration. Using current cost structures, he will be unable to pay for Space Station support, Space Station construction, science research, and the development of a new exploration vehicle. Unless commercial firms can step up and provide cost-effective Space Station re-supply services, something else will have to go. It is clear to NASA that a viable space industry is essential for implementing the President's vision. Action on H.R. 1024 might make the difference between a successful new industry and a failed one. Companies involved in government-based space activities face many challenges, including unpredictable budgets and limited profit expectations. Establishing space as a

tax-free zone for new investment will make all the difference in attractiveness of investing in the space frontier.

H.R. 1024 has four sections. The primary focus of this bill is the first section which excludes space-based income from gross income. It is important to note that income exclusion is not allowed for activities related to telecommunication, weather, and earth-observation satellites and services provided before the enactment of this bill.

A related provision of the bill is that space-manufactured products will be exempted from Federal excises, imposts, and duties and any other federal tariffs. U.S. companies should not be penalized for expanding manufacturing to outer space. As opposed to the rampant outsourcing of manufacturing to other countries, we should consider our borders as extending up to space and encourage our companies to look up. The first two provisions are enacted for several years and then they will be phased out over a 10 year period.

A third provision of the bill allows an investment credit for qualified stock purchases. Such stock must be for domestic C corporations that have gross receipts less than \$100 Million and such that at least 70% of those receipts come from space activities. This should encourage investments in medium-sized companies involved in space work and also allow ways for these businesses to generate the initial capital needed for research and development.

The final provision provides an exclusion for capital gains from the sale of stock in corporations that do 90% of their work in space activities. Like the previous provision, this should encourage individual investment in space-related corporations.

There may be concerns about that H.R. 1024 would reduce federal government revenues. But the federal government will get nothing from these new space industries if they are not created. I believe the more significant cost opportunities missed by not enacting this legislation. Not getting new space industries established as going concerns that will ultimately pay taxes would be far more expensive in the long run. My goal is to encourage economic growth in our next frontier and inspire future generations to join in the venture.

Thank you for the opportunity to speak before you today.

Ms. HART. Thank you, Mr. Rohrabacher. We are going to try to finish the hearing. I would like to call on Mr. Wilson for your testimony.

STATEMENT OF THE HONORABLE JOE WILSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. WILSON. Madam Chairwoman and Committee Members, thank you for the opportunity to testify in support of H.R. 365. Enactment of this legislation is necessary to permit corporations to accumulate reasonable and sufficient funds to protect themselves against normal business fluctuations, to plan for future business needs, to create new jobs, and to face unforeseen contingencies without fear of being subject to the Accumulated Earnings Tax, AET. If Congress fails to pass this legislation, prudent corporations will continue to be penalized with this unfair tax. The AET first came into existence in 1913. At the time, an enormous differential existed with respect to individual and corporate tax rates. Many private companies were created solely to circumvent paying these individual taxes, which were extremely high compared to the existing corporate tax rates, which were very low. Thus, the high differential tax rates actually created an incentive for Americans to establish private companies in order to reduce their enormous tax burden. This led to the creation of the AET to force such privately-held companies to disgorge their accumulated earnings as dividends to shareholders, making this income to the shareholder, which the IRS then taxed.

Times have changed now. With individual corporate tax rates nearly identical, the incentive to circumvent our tax laws by creating privately held companies no longer exists. The AET also creates unfair double taxation, as a 15 percent tax on dividends is levied after the corporate tax rate of 35 percent is paid. Thus, the AET now serves as a burden on American companies, especially since foreign corporations are not subject to the AET. This onerous provision of the Tax Code penalizes privately held American corporations trying to compete in the global economy. All H.R. 365 seeks to do is amend the tax laws to provide a clear safe harbor for the appropriate accumulation of earnings. The bill takes into account the size of the business being conducted and its historical need for earnings. It will allow a corporation to retain, at a minimum, sufficient earnings to cover the sufficient costs and expenses incurred in conducting business during the prior year. Enactment of H.R. 365 would, however, prevent the IRS or courts from imposing a penalty, sometimes retroactively, for an accumulation of earnings that is less than or equal to the significant costs and expenses that the corporation incurred in conducting its business during the prior year.

The AET discriminates against successful entrepreneurs who created businesses prior to the advent of the limited liability company. Privately held companies started by entrepreneurial American families should not be discriminated against by the Tax Code simply because they want to retain earnings for future research, investment to create new jobs, and development or for future contingencies. Congress can act to rectify a burden placed on private American companies by the 1913 tax provision, which was created in a different business environment that no longer exists today. H.R. 365 provides a clear and objective safe harbor that allows a reasonable amount of earnings equivalent to a company's working capital to be accumulated without fear of penalty. It will prevent the IRS and the courts to second-guess a corporation's business judgments and decisions and eliminates the need for unnecessary compliance cost. I respectfully request this Committee to consider the changes H.R. 365 proposes. It is time to amend the accumulated earnings tax laws to level the playingfield for American businesses. Madam Chairman, thank you again for the opportunity to testify before the Committee today. I would be happy to answer any questions.

[The prepared statement of Mr. Wilson follows:]

Statement of The Honorable Joe Wilson, a Representative in Congress from the State of South Carolina

Mr. Chairman, thank you for the opportunity to testify in support of H.R. 365 today.

Enactment of this legislation is necessary to permit corporations to accumulate reasonable and sufficient funds to protect themselves against normal business fluctuations, future business needs, and unforeseen contingencies without fear of being subject to the accumulated earnings tax (AET). If Congress fails to pass this legislation, prudent corporations will continue to be penalized with this unfair tax.

The AET first came into existence in 1913. At the time, an enormous differential existed with respect to individual and corporate tax rates. Many private companies were created solely to circumvent paying these individual taxes, which were extremely high, compared to existing corporate tax rates, which were very low. Thus, the high differential tax rates *actually created* an incentive for Americans to establish private companies in order to reduce their enormous tax burden. The IRS thus

created the AET to force such privately-held companies to disgorge their accumulated earnings as dividends to its shareholders, making this income to the shareholder, which the IRS then taxed.

Times have now changed. With individual and corporate tax rates nearly identical, the incentive to circumvent our tax laws by creating privately-held companies no longer exists. The AET also creates unfair double taxation, as a 15% tax on dividends is levied after the corporate tax rate of 35% is paid. Thus, the AET now serves as a burden on American companies, especially since foreign corporations are not subject to the AET. This onerous provision of the tax code penalizes privately held American corporations trying to compete in the global economy.

All H.R. 365 seeks to do is amend the tax laws to provide a clear safe harbor for the appropriate accumulation of earnings. The bill takes into account the size of the business being conducted and its historical need for earnings. It would allow a corporation to retain, at a minimum, sufficient earnings to cover the significant costs and expenses incurred in conducting business during the prior year. Enactment of H.R. 365 would, however, prevent the IRS or the courts from imposing a penalty, sometimes retroactively, for an accumulation of earnings that is less than or equal to the significant costs and expenses that the corporation incurred in conducting its business during the prior year.

The AET discriminates against successful entrepreneurs who created businesses prior to the advent of the limited liability company. Privately-held companies started by entrepreneurial American families should not be discriminated against by the tax code, simply because they want to retain earnings for future research and development or for future contingencies.

Congress can act to rectify a burden placed on private American companies by a 1913 tax provision, which was created in a different business environment that no longer exists today. H.R. 365 provides a clear and objective safe harbor that allows a reasonable amount of earnings equivalent to the company's working capital, to be accumulated without fear of penalty. It will prevent the IRS and courts to second guess a corporation's business judgments and decisions and eliminates the need for unnecessary compliance costs.

I respectfully request this Committee to consider the changes H.R. 365 proposes. It is time to amend the accumulated earnings tax laws to level the playing field for American businesses.

Mr. Chairman, thank you once again for this opportunity to testify before the Committee today, and I would be happy to answer any questions.

Ms. HART. Thank you, Mr. Wilson, for accelerating that testimony. We are going to proceed with questions and then go to the vote. So, I would like to recognize Mr. Larson, if you would like to inquire.

Mr. LARSON. Thank you, Madam Chair; and I will be very brief. In the interest of time, just let me again thank the Chairman for having these meetings and clearly especially the opportunity to see so many of my distinguished colleagues, many of whom I have served with on several different Committees within the Congress. I find that the best testimony we often receive is those from fellow colleagues because of their affiliation and closeness to their constituents that they serve. Let me equally add that I am duly impressed with the bills that have come before it. Mr. Garrett, I would just commend you to look at Mr. Neal's alternative amendment that he submitted last night with respect to the alternative minimum tax and hope you will look at that in terms of your consideration. Generally, I think, Mr. Wolf, Dr. Gingrey and Mr. Rohrabacher, your legislation, all of which are meritorious and worthy, I hope the Committee takes up. I would like to see us expand that credit maybe to include other professions, including nurses and other paraprofessionals, that these all make sense.

To my good friend and dear colleague, Mr. Weldon, who—I wholeheartedly support this effort and bill—who has been a co-

sponsor of a more narrow approach as it relates to nursing homes, in my district in Hartford, we lost 15 people 2 years ago in a fire, as you point out, that could have been averted if there were sprinklers here. Now is the time to act. You have demonstrated, as you always do, a tremendous amount of support among all your colleagues. It is my sincere hope that the Chairman of the Committee and the full Committee Chair will allow this legislation to go forward. I do think that, once on the floor, the common sense value of it, your particular method also in terms of scoring I think allows this to go forward in a manner in which it can be accepted. But I thank each and every one of you for your testimony. It really is important. I wish we had longer time to engage.

Ms. HART. Thank you, Mr. Larson. I just want to address a quick question to Mr. Weldon—and I am a co-sponsor of the Fire Sprinkler Incentive Act, in the interest of full disclosure. But I am curious about this because I know fire sprinklers are required by many communities because of their building codes, but why hasn't that moved these builders to put fire sprinklers in these buildings?

Mr. WELDON. It has. Most new construction, in fact, is required in high-risk occupancies, according to the NFPLA safety code, to have sprinkler protection. This bill focuses on those buildings that were grandfathered. When codes were enacted, older buildings were not covered. They did not put sprinklers in, and that is why you have the loss of life. The Rhode Island nightclub was an older building. The nursing home in Congressman Larson's district was an older facility. They weren't sprinklered. This is not just enough to encourage them. You can't go back and force them, but you can create incentives, and this incentive makes it almost a wash. Between the reduced premiums they would get from their property insurance and the reduction in their taxes, it pays them to install them; and they will.

Ms. HART. Thank you, Mr. Weldon. I am going to go to Ms. Tubbs Jones for questions.

Ms. TUBBS JONES. Gentlemen, I thank you for appearing this afternoon before this Committee. I, too, have enjoyed a great relationship with Mr. Weldon with regard to our Campus Fire Prevention Bill and some other issues with regard to fire prevention. All of the rest of you, I haven't enjoyed as wonderful a relationship, but I look forward to working with you on future taxing issues in the Congress. I am patient. I am going to be here for a while. So, I thank you, Ms. Hart, for the opportunity; and I yield back the balance of my time.

Ms. HART. Thanks. I am going to redirect for 1 second before you run away. You can run, Curt, because I am done with you. I just had a quick question for Dr. Gingrey, because you had several different parts. In the eminent domain one, the one was that sort of our main issue here, you state that current law actually would tax people who don't want to sell their property because they are forced to sell it because of eminent domain; is that correct?

Mr. GINGREY. Yes.

Ms. HART. You simply would not penalize them for being sort of victims of eminent domain.

Mr. GINGREY. That is correct.

Ms. HART. Good——

Mr. GINGREY. Even if they got fair market value, it is a situation where they are forced to do something really against their will because of this power of eminent domain.

Ms. HART. Thank you. I am sorry. I know everybody has to vote. I want to thank the panel and everybody for being here. The information is great, and we look forward to your cooperation to these issues. The hearing is adjourned.

[Whereupon, at 5:10 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

Hayden, Idaho 83835
November 29, 2005

Ways and Means Committee,

My name is Patrick Jay Adams. I live in Idaho's 1st District and am represented by the honorable C.L. "Butch" Otter. I am honored to have the opportunity to provide testimony to your committee.

I would like to provide some insight to the issue of the Alternative Minimum Tax, specifically how it relates to ISO stock exercises, and to encourage you to support Bill 3385, which addresses this issue. I trust this issue and this bill are not unknown to the members of the Ways and Means Committee.

I am a hard working, college educated, middle-income American. I paid my own way through school and advanced in my professional career by hard work and dedication. When the opportunity came for me to join a cutting edge technology startup company, I was excited. There was great momentum around the high tech industry, and after doing my research, I found a company that was poised with great technology and great financial backing.

When I accepted the job, I was awarded ISO stock options with the hope that one day our company would go public and some value would be accessed to those options. The tradeoff was a slightly lower salary and lots and lots of long working hours.

Working as many hours as I did back then, it was hard not to consider the ISO options as part of my compensation package. I was not upper management, not a CEO or CFO. I was a technical writer working in the trenches trying to document a dynamic new product.

We did eventually go public and my ISO stocks became very valuable. I was advised to exercise and hold these shares, which generated an enormous AMT bill. This bill exceeded the money I took away from the eventual sale of the stock.

My story is not unlike many others you've heard. My hope is that in addition to the other testimonies from people in similar positions, my testimony will help enlighten your committee (as well as congress as a whole) that the people being unfairly hurt by the ISO/AMT situation aren't multi-millionaires but rather hard working people who got caught by a very unfair aspect of the tax code.

It's important to point out that the people in my situation are the people who played by the rules—that is to say that we obeyed the tax regulations. For every 2 people who complied with the AMT regulations, there were 3 people who did not, taking advantage that no independent reporting exists. For every 4 people who complied, there was 1 person who expatriated rather than have their lives destroyed by working for the rest of their lives to pay taxes on income they never received.

My tax rate for 2000 and 2001 was nearly 1000 per cent of my income. This generated an AMT credit that I have no hope of utilizing in my lifetime. It has caused incredible financial strain on me and my family.

I strongly urge you to support Bill 3385. This bill can help correct a terrible wrong. It is a fair bill. Myself and people like me have provided an interest free loan to the IRS that under current law, the IRS will not have to pay back in my lifetime. Though I highly doubt this is the spirit of the AMT tax code, it is definitely the letter of it.

Bill 3385 is only asking for 20 percent AMT credit balance back each year. It seems unlikely that the IRS would be willing to accept these terms with an outstanding tax balance due.

In addition, there are many people who have not paid their outstanding ISO/AMT bills. Should Bill 3385 pass, then these people will very likely come forward, possibly resulting in a revenue gain for the IRS.

Please help correct this situation.

With great respect and regards,

Patrick Jay Adams

Statement of Air Conditioning Contractors of America, Arlington, Virginia

The Air Conditioning Contractors of America (ACCA) is pleased to provide comments for the record in connection with the November 15, 2005 hearing of the Subcommittee on Select Revenue Measures of the House Committee on Ways and Means on "Member Proposals on Tax Issues Introduced in the 109th Congress." ACCA commends Chairman Dave Camp (R-MI) and Ranking Member Michael McNulty (D-NY) for holding this important hearing to highlight tax issues from Members of Congress who do not sit on the House Ways and Means Committee.

ACCA represents the nearly 4,000 member companies who design, install and maintain heating, ventilation, air conditioning, and refrigeration (HVACR) systems across all 50 states. Over 75,000 men and women in the HVACR industry are employed by ACCA member companies.

Currently, the federal tax code for the depreciation holding period for commercial HVACR equipment is 39 years. This is not beneficial to owners of commercial buildings because the equipment lifespan of properly maintained HVACR equipment is 15 to 20 years. As a result, commercial building owners have no incentive to replace older, less efficient equipment with newer, more energy efficient HVACR equipment because of the 39 year holding period. "The Cool and Efficient Buildings Act," H.R. 1241 sponsored by Representative Peter Hoekstra (R-MI), would resolve this problem.

H.R. 3953 reduces the 39 year depreciation holding period to a realistic 20 year depreciation holding period for HVACR equipment. Because most HVACR equipment has an optimum lifespan of 15 to 20 years, H.R. 12413 provides a realistic recovery period, thereby providing an incentive to commercial building owners to replace older equipment with new equipment.

In addition to providing a realistic depreciation schedule, H.R. 1241 also encourages energy conservation. In the past 15 years there have been dramatic changes in HVACR technology, making the equipment manufactured today extremely energy efficient. The HVACR systems now being installed in America's homes and businesses make obsolete many of the commercial heating and cooling systems in use today. Providing a financial incentive to building owners now would encourage them to upgrade to more energy efficient equipment instead of waiting until their obsolete equipment breaks down, which is the current practice today.

H.R. 1241 also provides the following benefits:

- New equipment to better manage indoor air quality, providing healthier indoor environments, which leads to less worker absenteeism and greater productivity.
- Higher efficiency equipment will greatly reduce carbon dioxide emissions.
- Increasing the turnover of outdated equipment will produce additional manufacturing and service jobs, thus further stimulating the economy.

Passage of H.R. 1241, the "Cool and Efficient Buildings Act," can help upgrade the nation's HVACR equipment and promote energy efficiency and savings. We applaud Representative Peter Hoekstra for sponsoring this legislation that creates jobs, provides healthier indoor environments and reduces carbon dioxide emissions. ACCA strongly urges the Subcommittee Members to join our 43 cosponsors and consider this legislation that reduces the depreciation period of commercial HVACR equipment from 39 to a more realistic 20 years.

Thank you for the opportunity to submit this Statement for the Record.

Plano, Texas 75074
August 30, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

Below please find my submission this spring to President Bush's Tax Reform Advisory Panel

I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

I am employed by Network Appliance in the Plano area of Texas. In 2000 I purchased some of my stock options. During that time the stocks buy value was \$50/shr and the peak value was \$150/shr then within a few months the value dropped to a low of \$6/shr. Consequently, we were taxed at \$50 per share rate even though by the end of the year—the stock was only valued at \$6 per share. We were told

we owed AMT in the amount of \$350,000. This was a prepayment of tax for which we hadn't received benefit from. Lets remember, we purchased the asset we didn't sell it and receive capital gains! My wife and I had started building our retirement home and we had to finish the house using our savings rather than gains from the stock. I then had to mortgage the house.

The IRS ruled that we would have to sell our house in order to pay the AMT liability of \$350K. I put the house up for sale and three months later, the IRS attached my wages because the house had not yet sold. When this did not help the house sell, the IRS attached my base salary and my bank accounts—forcing me into bankruptcy. I have always paid my taxes on time and I have never been audited. I am 57 years old and all my savings were in the house. The house never sold and eventually was foreclosed on—eliminating any future liability for the payments, but leaving us with no equity to pay the IRS. We finally got the IRS to negotiate a settlement (after 18 months in bankruptcy) on the amount to be paid over a six-year period. I have hundreds of thousands of carry-forward losses but they cannot be used for previous years. We settled on paying the IRS \$240 over six years which will take most of my income. **Then, I will start to try to build up retirement when I'm sixty-two years old!!** Since I was forced into bankruptcy, I don't have a credit card to travel and do my job—I can't rent a car. I use a bankcard for hotels and meals and get rides from other employees in the cities I visit. I would have paid anything I could afford from day one—the IRS didn't have to force me into bankruptcy. This Policy & the IRS has ruined my credit, cost me thousands in legal and accounting fees (all of which could have gone to paying them). I'm at a loss as to why someone who has never done anything but pay his taxes on time can be treated in such a vindictive manner!

The ISO AMT law is beyond unfair! IT'S CRIMINAL and should be changed immediately!! It has ruined my families retirement and has forced me into bankruptcy unnecessarily. Your support is respectfully and urgently requested so that other families and other honest taxpayers don't get caught in this horrible AMT trap.

Nelson R. Allen

Statement of American Academy of Audiology, Reston, Virginia

The American Academy of Audiology would like to thank the Chairman for holding a hearing on the topic of individual tax proposals introduced in the 109th Congress. The Academy, representing over 9,700 audiologists, is dedicated to providing quality hearing and balance services through professional development, education, research, and increased public awareness of hearing and balance disorders.

The Academy supports H.R. 414, the Hearing Aid Assistance Tax Credit Act, introduced by Representative Jim Ryun (R-KS), as a step forward to providing financial assistance for individuals with hearing aids. Given that hearing aids and related services are often reimbursed at a low rate or are not a covered benefit at all, we applaud Rep. Ryun for his leadership to bring some relief to patients with hearing loss.

For the 31 million Americans who have some degree of hearing loss, 95 percent can be treated with hearing aids. Yet only 20 percent of those with hearing loss use hearing aids, while a full 30 percent cite financial constraints as the reason they do not use hearing aids. Audiologists directly treat hearing loss in children and adults, and we have seen first hand the dramatic benefit that hearing aids can provide in terms of greater safety, increased ability to communicate, and an overall significantly enhanced quality of life.

Hearing loss has been shown to negatively impact household income on average up to \$12,000 per year depending on the degree of hearing loss. However, the use of hearing instruments is shown to mitigate the effects of hearing loss by 50%. For America's 24 million individuals with a hearing impairment who do not use hearing instruments, the impact of untreated hearing loss is quantified to be in excess of \$100 billion annually. At a 15% tax bracket, the cost to society could be well in excess of \$18 billion due to unrealized taxes.¹

This modest bill would help audiologists treat more adults and children who need hearing aids, but simply cannot afford them. The Hearing Aid Assistance Tax Credit Act is a simpler means to address this problem rather than costlier measures, such

¹ Kochkin, S. Better Hearing Institute: The Impact of Untreated Hearing Loss on Household Income, August 2005.

as Medicare expansion or mandatory insurance coverage. The bill provides the consumer complete freedom to choose any level of hearing aid technology from a professional provider. The Academy urges the public to see a licensed audiologist for these services to ensure the highest quality of hearing health care. The credit will apply to any hearing device that is considered a "qualified hearing aid" under the Federal Food, Drug, and Cosmetic Act.

The American Academy of Audiology appreciates the Committee's attention to this tax proposal and for holding this hearing today. We encourage Congress to support the Hearing Aid Assistance Tax Credit Act (H.R. 414) to provide a \$500 tax credit per hearing aid, once every five years.

Mountain View, California 94041
August 25, 2005

Ways & Means Committee
Subcommittee on Select Revenue Measures

To the members of the Ways & Means Committee:

Thank you for taking the time to read this letter. I believe the Alternative Minimum Tax (AMT) and its treatment of pre-taxation on Incentive Stock Options is wrong. I have submitted my story on numerous times to my Senator, Congressperson as well as the Ways & Means Committee and the President's Advisory on Federal Tax Reform. I feel that the AMT, which was originally created because 155 wealthy businessmen didn't pay any taxes, was not intended to financially ruin the middle class worker. It is an unfair tax and should be abolished immediately. This tax has caused our family undue stress and anguish. As a taxpayer and citizen, I urge you to please support H.R. 3385.

Here is my story: In 1995 I joined a start-up high tech company called VeriSign. I was hired as an Executive Assistant to the President and my salary was \$45,000. Over the years, I was granted Incentive Stock Options (ISO). I tried to regularly exercise and hold my ISOs for one year in order to pay long-term capital gains on the stock. In July 2000, I decided to leave my job so that I could plan my wedding and also start to plan a family. I had stock that needed to be purchased when I quit my job in July of 2000, so I exercised the stock. As everyone knows, the stock market then suffered the **worst stock market downturn in history!** At the time, I did not sell my stock in hopes that the market may recover. Had I known about the AMT, I would have sold the stock immediately. I come from a middle class background; my father worked for AAFES (Army & Air Force Exchange Service) and my mother was a nurse. I could not go to my parents for advice regarding my stock options because they had no experience with stock. I tried to get a financial advisor but had a difficult time finding one since, at the time, here in the Silicon Valley, financial advisors would only take people with large portfolios. My only financial advisor was the broker that I used through VeriSign, who was biased since they worked for VeriSign—they suggested I hold my stock. Many people had similar situations to mine. My tax preparer told me that I would be subject to the Alternative Minimum Tax and that I could receive a tax credit and I could use that to offset a sale later on. Unfortunately, my tax preparer wasn't aware that I would only be able to recover \$3000 per year in my AMT tax credit. At the time, most tax preparers hadn't had much experience with AMT and therefore, could not give any detailed advice on how to handle the stock. At that time, my salary for 2000 was \$50,747 and my taxes paid to AMT were \$408,627—**over 8 times my annual salary** on money that I did not have nor received!! I had to take all the stock and sell it and take a loan in order to pay my taxes. On top of that, I had to pay lawyers and accounts in excess of \$20,000 to help me to understand AMT and to try to fix this problem. The amount of stress was and is still unbelievable.

I never received any benefit from my ISOs—in fact, I now have a tax credit that I will never be able to use in my lifetime. Since AMT is also a self-reported tax, I have many sleepless nights thinking about how I shouldn't have reported the stock to the IRS, how it doesn't pay to be honest, etc. I personally know many people did not report this tax because they felt that the chances of being audited were very slim. At the time, I did consider this but having spent my entire life working and paying taxes, I knew in my heart that I was not the kind of person to lie to the government.

AMT was never intended to trap the little guy. It was originally intended to make sure the very rich, who years ago had tons of loopholes to hide their money, would pay taxes. This law is flawed on so many levels:

1. It's self-reported, the IRS has no way to track who reports and who doesn't;
2. You are pre-taxed on gains that have never been realized;
3. After paying AMT, you are given a tax credits that never gains any interest (on the flip side, if we owe the IRS money, we have to pay interest plus penalties);
4. The AMT tax credits will never be fully used—mine is \$408,627 and it would take me 136 years to use this credit.

The mental anguish over this tax is unbelievable. I know that many people think that those of us who were caught in the AMT ISO trap were greedy but that isn't the case. I personally feel that my lack of understanding ISOs and the stock market along with the confusing way that AMT is calculated helped to get me in this AMT mess. I just didn't have the knowledge to fully understand the ramifications of this law. Those of us who found out the hard way had to make a decision, either report it or not—many did not. I chose to report the tax even though I felt it unjust and unfair. However, my honesty only got me a huge AMT bill while others walked away and didn't report their AMT. Those who didn't report, wait for the statute of limitations to go by and then breathe a huge sigh of relief when they find they haven't been audited. The IRS has no way of tracking stock sales and exercises and they rely solely on the taxpayer to supply this information—this seems awfully stupid to me as it can lead to under reporting, etc. of this and other taxes.

I am working with a law firm to try to recover some of the AMT that I've paid. My amended returns have been with the IRS for over two years. The IRS holds amended returns "hostage" so they can sit out the statute of limitations instead of making decisions regarding our arguments for getting credits back faster. I believe they do this because they are afraid to do the "right" thing and call this law unfair. The IRS refuses to respond to my amended returns. The only recourse that I have is to take the IRS to court—which means spending another \$15,000–25,000 of money that I don't have—and then knowing that the courts don't want to make the "fair" decision but want to make the "constitutional" decision (following the law). If I did go to court—I could be tied up in court for another 5 years. The only way to get justice is for the law to actually change.

I hope that my letter puts a "face" on what this horrible law has done to the average person. I am not an executive, I am not a founder of a company, I ended my career at VeriSign as a Project Manager—nothing fancy. If you saw my tax returns for the last 10 years—you would see that I never made over \$75,000 a year in actual salary. I always paid my taxes on time. I'm a responsible, citizen who has voted in every election since I turned 18. I believe that my government will do the right thing. However, in the future, I would never accept stock in lieu of salary like I did at VeriSign. I don't ever want to be in a position of having to make decisions that will ruin my financial life and the life of my family.

I hope and pray that the Ways & Means Committee will have the courage to listen to all the comments from people like myself and make some real changes in this law. We did what we thought was right, we reported our stock exercises and then ended up paying millions of dollars in pre-tax to the government on stock that we never saw any financial gain. It's wrong. Plain and simple. If it happened to you or to one of your family members—you would be outraged. Time is running out for those of us who couldn't pay their AMT—if the Ways & Means Committee does nothing—many will lose everything they ever worked for—their savings, 401Ks, their children's education funds, their homes. Please do something about this before these honest citizens end up homeless.

Susan Schroeder Anderson

Rio Rancho, New Mexico 87144
November 13, 2005

Dear Honorable Congressmen,

I am one of those individuals who was not targeted for but unfortunately caught up in the AMT debacle. The AMT is bad law! It is not intuitive and even the tax experts I have consulted seemed to be confused about it.

I don't mind paying my fair share of the tax burden and I understand how my tax dollars provide many of the conveniences and safety I enjoy, however a government that requires me to pay taxes on "income" I never received is unconscionable.

In 2000 I purchased ISO stock options, at an expense to me, and held onto the stock certificates. It's important to note that I RECEIVED NO INCOME from the transaction. Imagine my surprise when my accountant told me I had to pay taxes

on “imputed” income. I argued that she was crazy. My government would not tax me on money I never received. Unfortunately she was right.

This was stock from a high tech company (Intel) and the stock is currently trading at a fraction of what I paid for it. Not only did I not receive the “imputed” income which I paid taxes on, I doubt that the stock will ever trade at those prices again and I’ll never receive that income.

To make matters worse, under the current code I doubt I’ll ever recoup the AMT taxes I paid. That money is sitting in a non-interest bearing account under my name at the IRS, per my CPA.

Please support and pass H.R. 3385 and give me my money back. I need it to get my kids through college (which is what I had that money earmarked for before I had to liquidate the account to pay taxes on “income” I never received). Subsequently, I have been forced to take out loans to pay for my kid’s college.

Thanks for your consideration on this important matter.

Respectfully submitted,

Lewis Ankeny

Statement of Ross Ashley, Dallas, Texas

I ask for your support of H.R. 3385. This bill is a good first step towards alleviating the pain and suffering that my family is experiencing right now and, with no end in sight, for many more years.

I worked as a software engineer for a once high-flying software company, i2 Technologies. I was not an executive or even a mid level manager. I was simply a hard working individual contributor. I made several significant contributions to our products and later helped our customers solve special problems. I was granted incentive stock options every year from 96 through 2003 and our stock price rose along with others during the tech bubble. In 2000 I exercised options with a market value at that time of about \$450k. The exercise of those options resulted in a tax liability that I didn’t fully understand at the time. The AMT tax that I incurred was about \$150k. By the end of the year, the value of the stock that I owned by virtue of the options I exercised was about \$75k, or about half the value of the AMT tax I owed. i2 Technologies was trading in the spring of this year at approximately \$0.50.

Congress passed laws encouraging individuals to buy and hold stock rather than trading it on a short term basis when they reduced the capital gains tax rate. When I exercised the stock options I intended to hold those shares and that’s exactly what I did. When more of my options vested I planned to exercise them and hold them also. I had no inside knowledge of the impending collapse of the tech industry. As far as I knew, our products were world class and our solutions were saving our customers real money.

In early 2001, I thought that we were experiencing a market correction and that i2 was a great company. Soon the market would see that i2 saved it’s customers money and it would reward the company with a higher stock price. So I didn’t sell the shares in early 2001 even though the value of those shares was then less than half of the tax liability. Later that year, I submitted an Offer In Compromise of about half the value of my IRA, which at the time was about \$40k. It was rejected.

Today I am living with my wife’s family, on disability, with virtually no savings other than a very modest IRA which today is worth about \$10k. My tax liability has increased through penalties and interest to about \$200k. The appeal of my first Offer In Compromise was rejected in May 2003 since at that time, although confined to a wheelchair, I was still employed even though I explained that since my condition, Freidrich’s Ataxia, was progressive and incurable, it was not likely that I would be able to work for more than 9–12 more months. I finally had to quit work in March of 2004, about 10 months after my appeal.

The tax liability that I have is ridiculous and unfair. The fact is, if the AMT threshold of \$40k, which was established in the late 1960’s, had been adjusted for inflation, the unintended victims of this short sighted tax law would still be unaware of what AMT means.

In my case, the tax liability has hung over my head now for more than 4 years. I have submitted another Offer In Compromise, this one significantly smaller than the one that was rejected over 2 years ago. I no longer own a home and my savings has dwindled. The appeals agent at the IRS that heard my first Offer told me that although she sympathized with my situation, her hands were tied by the Service and she could not accept my offer.

If the AMT tax was simply applied in the manner it was intended when it was established, even during the tech bubble, the average worker who had been rewarded by her company for excellent work would not face financial ruin at the hands of the IRS. After all, I didn't benefit from owning that stock. Why should I owe any tax on it? Why should I owe so much more than I am worth? Why doesn't the IRS allow it's appeals agents to make decisions that are good for the treasury and good for the individual taxpayer?

I have a Collection Due Process hearing scheduled for Sept. 1. After that meeting, even as I continue to be optimistic, I will probably consult with my legal representative about filing for bankruptcy. I owe much more than 10 times my net worth in taxes and my only income is Social Security Disability and the long term disability provided by a private insurer. My IRA is being decimated by legal fees and I am utterly powerless to stop this unfair and unreasonable action against me and my family.

Manchester, Michigan 48158
August 31, 2005

House Ways and Means Committee

I am an average middle class American working in the high tech computer industry. I have been employed with the same company for about 7 years. I was granted ISO stock options as part of my compensation package when I first started. During the internet boom on the stock market, my ISO stock options had a paper value of approximately \$2M. I never saw this money due to the dramatic rise and then crash of the stock market valuations. In the year 2000, I had income of approximately \$100,000. However, when my accountant calculated out what I owed due to AMT, the amount equaled \$371,000 . . . This is due to the over valuation of the stock during the year 2000 and not taking into account the dramatic fall of the stock. I was absolutely certain the accountant was wrong, because how could tax rates exceed my entire income! I checked with many attorneys, and tax accountants to find that, in fact, the accountant was correct and it was due to a little known tax called Alternative Minimum Tax, which is basically an interest-free loan to the government that gets credited back to you over time. . . .

So, I entered the paperwork that says I owe \$371,000, however I did not have the money, nor do I have it today. In, fact that stock that was valued at \$150 per share was now trading at \$5 per share and my option price was \$4.28 per share. So, my stock value that was left was less than \$10,000. As you can see the AMT is not working the way it was intended. I conducted a lot of research into the tax, the history, and joined an organization that is made up of many other hardworking, honest taxpayers that this has affected.

My wages are currently being garnished by the IRS and only allowed to take home \$332 per week. With the current gas prices over \$3.00 per gallon, it costs me about \$32 a day to drive to work and back home. So after paying for gas, I am left with about \$172 per week. I am borrowing money weekly to stay afloat financially and going into more debt by the day. . . . My life is being destroyed by a huge, unfair tax burden and since I am also raising 2 children, I am barely able to buy them groceries, let alone put money away for their college education. I have filed for an installment agreement with the IRS and that was denied. I have filed appeals with the IRS and those were denied. I am currently looking for help in any fashion to pay the IRS a reasonable amount to move on and get on with my life. When the accountant did my taxes without AMT for 2000, the tax would have been \$10,000 extra over what I paid thru the year. However, even when I offered to pay the IRS \$1,000 every month for 7 years, (\$84,000) they refused and continue to take my paychecks except the \$332 per week they think I can live on . . . HELP!!!!

Michael K. Brown

San Francisco, California 94115
November 13, 2005

I have worked in the high tech industry, for the same company, for 17 years. A long time ago I was given Incentive Stock Options and I exercised and held them shortly before they were to expire. Unfortunately, I exercised these options in 2000 and the stock fell dramatically. It has recovered a little bit but it will be years or maybe never before it get backs to where it was. As a result of this exercise, I paid

approximately \$300,000 in Alternative Minimum Tax. I depleted savings, refinanced my house and borrowed money from family. I don't make anywhere near \$300,000 a year and was shocked to have to pay significantly more in tax than my annual income. I have no problem paying taxes but only if I actually receive money. Paying this tax has severely impacted my life.

The IRS is refunding this credit at a very slow pace. This is frustrating because it is clear they do not believe I owe the money but will only refund the credit amount that is the difference between AMT and Regular tax. At this rate, I will never recover all of my credit and will most likely die before I do and no one will recover it.

Please support H.R. 3385.

Thanks,

Mary Burns

Cupertino, California 95014
August 31, 2005

To Honorable Chairman William M. Thomas and House Ways and Means Committee

Dear Honorable Chairman Camp and Ranking Member McNulty

I have submitted my testimony and shared my story at the following Hearings:

6-15-2004, Ways & Means Hearing on Tax Simplification, Oversight sub-Committee

3/17/05, President's Tax Reform Advisory Panel

6-08-2005, Hearing on Tax Reform, Full Committee

I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

Recent updates since my last testimony submission. The IRS is now requesting that I prepay an additional \$400,000. and \$600,000 in penalties and interest. It's not bad enough that I already over paid my taxes by \$1.4 million, a 2000% tax bracket that will take me 433 years to have returned to us, but they want to now place me in a 3500% tax bracket that will take me 800 years to have returned to me. If this isn't legalized extortion I don't what you would call it!!! It is ludicrous to cause such a cash flow/bankruptcy situation on the American public for the sake of prepaying a tax that isn't really owed and never returned even after the gain/loss has been determined.

God Bless this great country and you our Leaders to break the chains of tyranny we find ourselves captive of.

We respectfully and urgently request your support of H.R. 3385.

Joseph Cena & Dawn Hasegawa

Dear Chairman Thomas and Committee Members: My name is Joseph Cena and I am writing on behalf of my family, Dawn and Justin. We appreciate the opportunity to discuss the hardships we have suffered due to the challenges that have been set forth by the Alternative Minimum Tax Laws. We hope that our situation can assist with putting into place changes that will allow for more reasonable tax policy as opposed to such restrictions that have been causing financial turmoil & ruin for so many Americans.

I am attaching the original letter that we submitted June 04 to the Ways & Means Oversight "Tax Simplification Hearing" although the language is a tad bitter, I felt it needed to be included as we truly feel that this has come to harm so many taxpayers. It was a plea for help because our situation, while unique, is so similar to many other Americans and we felt helpless. My only hope is that you will read it with compassion and be open-minded as there are thousands of stories that are more heart wrenching than ours.

Please help us implement a new tax law that does not create a phantom tax on unrealized gain. No one should have to pay tax for something that is not tangible, but rather looks good on paper. We beg of you and your committee members to take a look at how this would affect you if you were faced with the same situation. Only then will change be possible.

Joseph Cena & Dawn Hasegawa

I write to thank you for taking on the difficult task of simplifying our tax code. I respectfully enlist your support and ask you to please act for the sake of thousands of families who are being financially decimated (mine included), for the sake of the general U.S. economy that is being adversely affected, to help hard working taxpayers regain faith in the IRS and to repeal one of the most egregious applications of Tax Policy ever enacted: the dreaded and stealthy Alternative Minimum Tax (AMT).

This woefully outdated policy forced me and my family into a **2000% tax bracket** in 2000 and required us to provide an **interest free loan to Treasury** that will take us 433 years to receive back!!

A little bit about us:

My family has lived and worked in California for 26 years. Our home is a 56-year old, 1,245 sq ft., 3-bedroom ranch home in Cupertino California. We have a 9-year old son, Justin. My wife, Dawn, is a unionized Registered Nurse of 23 years who is currently working in the Stanford University Hospital Emergency Room. Both of us are approaching our fifties, and our living parents require our financial support, which we are unable to provide in our current situation. As you will easily understand, our experience with the AMT has been very stressful on our family and we have come close to divorce over this!

I started my career in the electronic manufacturing sector working on programs for the Department of Defense, the first MRI unit, and other dynamic technological areas of industry. I proceeded to Stanford University where I consulted on exciting projects such as the Hubble Telescope, Sun-Net, the Rel-Gyro project (Testing Einstein's Theories), and helped the founders of Cisco Systems. From there it was back into High-Tech in 1994–2001 at Synopsys, and Network Appliance. Both firms offered stock options, and were on growth paths of 50–100% growth year over year. I typically worked 10–14 hours per day, 5–6 days a week.

While I was a Customer Service Manager at Network Appliance, I was diagnosed with a life threatening disability and in December 2000, I started chemotherapy treatment. In spring 2001, while undergoing chemo, our accountant informed us that we were subject to a parallel tax called AMT and we were responsible for \$2.1 million in tax to the IRS and California even though we didn't sell or have a gain.

I was shocked to learn that the tax imposed had absolutely no correlation to actual gains; and that it would actually be an **overpayment of \$1.4 million!!!** How is it possible that a law that was enacted in 1969, to catch 155 wealthy people who didn't pay taxes, is now forcing tens of thousands of hard working citizens and entrepreneurs to legally **pre-pay a tax** and making it nearly **impossible** for them to recoup the overpayment in their, or their children's lifetime? To add insult to injury, the taxpayers who overpaid their taxes to the government do not earn interest on their own money even though Congress has established such safeguards for consumers requiring banks, escrow companies, landlords and others to provide interest income even on funds held in trust for even just a short-term.

Many are being driven into bankruptcy over phantom gains. I am certain that Congress did not intend to drive people to bankruptcy when it created the AMT in 1969. Under the regular tax system if a taxpayer overpays, he or she receives a refund in a lump sum, not so under AMT.

Impact on Us and the U.S. economy by not having our tax credit returned:

Other than perhaps homeland security, there is no more important issue affecting my family than the AMT. Thankfully, my illness is now in remission. My wife and I had wanted to have more children, but we discovered we are medically unable. We then thought to adopt but we are financially unable to do so. I was laid-off during my disability in 2001 and have been out of work for three years. My unemployment ran out long ago and we need the money. For example, my wife's 1991 Nissan truck has 133,000 miles and needs replacing. It would help us tremendously even if all we received was the interest on our credit.

I've have drawn up few business plans for "start-ups," one a consumer wireless application, real estate venture and others. If I had my credit back I would put it to use to launch these businesses and help contribute to our economy-putting putting people back to work—people who would be paying income tax!!

Thank you for your time and consideration, I hope that with your leadership and help Congress can quickly enact a fair and principled reform to the ISO-AMT provisions and help us grow the economy.

Joseph Cena & Dawn Hasegawa

Foster City, California 94404
August 30, 2005

The Honorable Chairman William M. Thomas
 The House Ways and Means Committee

To the Honorable Members Ways and Means Committee:

Thank you for giving me the opportunity to write to you concerning tax reform. Specifically, I would like to address the Alternative Minimum Tax and its treatment of Incentive Stock Options.

My name is Jeffrey Chou, and I have a wife and 2 daughters—one is 4 years old, and the other is 1 year old. We currently face an AMT bill, from exercising Incentive Stock Options, which is greater than all our assets. And, because of the new bankruptcy laws that will be going into affect in October, we are seriously considering declaring bankruptcy within the next month. This issue cannot be more urgent. H.R. 3385 is the only bill that will save me from financial ruin by being taxed on money I never received.

In 1996, I left a secure, stable job at a large company to help start a communications company as an engineer. My compensation consisted of an annual salary of \$80,000 and Incentive Stock Options. Cisco Systems eventually acquired us. It was a happy time for my family, thinking that my hard work in helping to build a company would finally pay off.

In 2000, we decided to exercise my stock options, and were advised to hold the stock for 1 year. We did not and do not live extravagant life styles. We live in a 3 bedroom townhouse—I drive a 1997 Toyota, and my wife drives a 1998 SUV. We have good credit and have always paid our taxes in full and on time. In April 2001, following my exercise of the Incentive Stock Options, we faced federal and state taxes of \$2.4M, more than 6,000% of our normal income tax and more than everything we owned. We also faced an ethical and moral dilemma. As we sought professional help to deal with this tax liability, several CPAs advised us not to comply with the law—to simply omit reporting the exercise and the tax. We discovered that the AMT on exercising stock options is a self-reported tax. Many of my friends and colleagues took this approach, did not report their exercise of stock options, and to this day, live happy lives.

However, we decided to “do the right thing” and comply. We had faith that our country, in return, would also “do the right thing” and not ruin its honest tax payers. Since then, the IRS has sent us threatening letters, placed a lien on our names, attempted to levy our accounts, and actually visited our house demanding payment. The IRS rejected our Offer In Compromise and we appealed. The appeals officer admitted to us that our offer was in good faith and was reasonable, but that he still could not accept it. Today, we are in IRS collections.

I do know that those who did not report are certainly glad they didn’t. And I also know that among the many honest people I have met over the last 3 years whose situation is similar to mine, few or none, if faced with the same choice, would comply again. Why volunteer for a 100% guarantee of ruin, when you can win the audit roulette 99.9% of the time? My friends, if caught, will simply claim ignorance of the law. I am told it will be hard to prove that they were not ignorant of the law given how many tax experts are unaware of the consequences of the interaction of the AMT with Incentive Stock Options.

You may ask “Why didn’t you sell?”

We are not sophisticated investors. I am an engineer; and my wife is a stay-at-home mom. We listened to advice that told us to hold for 1 year. At the time, I had no knowledge of diversification or hedging strategies. I worked 12 hour days trying to build products and meet schedules. At night, I returned home to help my wife with our new born daughter. That was my life. In addition, our CEO, all throughout 2000, even as late as December, kept touting Cisco’s optimistic future, saying “we will be the most powerful company in history”, “we are growing 30 to 50% every year”, and “we are breaking away from our competitors.” At the time, he was never wrong before, so I felt no sense of danger for my job, for my company, or for the stock. I had faith in my company and its leaders.

I sincerely ask Congress to help those in my situation. We are all honest tax payers who want to do what is right for the country. Most of us are hard working Americans who helped build a company and who wanted to remain part of that company instead of “cashing in.” We also want to pay our fair share of taxes—but please tax us like any other investor—tax us when we realize our gains, not on what we might have gained.

I believe things happen for a reason. If I can be a small part in helping to correct this injustice, the faith I have in this great country is justified. My family and I

respectfully ask for your support of H.R. 3385. We hope that its passage will come before our bankruptcy completes and our home is lost.

This is the highest priority of my life. Please do not hesitate to contact me any time for any reason.

Jeffrey Chou

Durham, North Carolina 27705
November 26, 2005

To Whom It May Concern:

I have submitted my testimony and shared my story previously for the 6–15–2004, Hearing on Tax Simplification. I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385, so I've included the original testimony below. I respectfully and urgently request your support of H.R. 3385.

Very Sincerely,
John Cole

June 20, 2005

Dear Chairman Thomas and Committee Members:

My name is John Cole, and I am writing to you to share my story of a severe problem related to the Alternative Minimum Tax (AMT) and the way it is has been applied to employee stock options. If you will bear with me I would like to begin by providing some personal background information.

I was born in 1958, and grew up in Durham, NC. In 1977 at the age of 19 I moved to the San Francisco Bay Area, and for the next dozen years had a variety of blue collar jobs including home construction, cooking and waiting tables in restaurants, and working for moving companies. In 1989 at the age of 31 I went back to California Community College where I studied Computer Science for two years. When I was 18 I had attended College for 1 year, but had no clear direction and did not do well, which ultimately led to my withdrawing from school and heading West. However, the second time around I was highly motivated and extremely focused, and although I did not earn a degree I took 2–3 classes a semester while working, and maintained a perfect 4.0 average.

I was determined to provide myself with a solid foundation so that I could break into the growing world of hi tech, but being over 30 years of age with no job experience turned out to be a significant drawback: I applied for literally scores of entry level jobs and was consistently turned down, most often without ever having opportunity to interview with anyone.

Nonetheless I persevered and finally in March of 1992 was able to land a job initially paying \$10/hour with a small startup software company, and over the next 3 years was able to grow within that outfit to where when I left I was the Senior Systems Engineer, and was the primary Technical Account Manager for many corporate customers which had site licenses for our e-mail package, including several large firms based in New York City, also Motorola and Ford Motor Company. It was the norm during that period to work 70–80 hour weeks, but I loved it: It was a period of tremendous personal growth for me, and coincided exactly with the emergence of the Internet as a public phenomenon.

In January of 1996 I joined another software startup located in Silicon Valley. As was common practice at that time as part of a standard compensation package in addition to a base salary I was issued a modest number of Incentive Stock Options (ISOs) which would vest over a 4 year period. This was a model which allowed employees to feel they had a stake in the company, and again I worked on average well above a standard 40 hours/week, doing my part to help make the company a success.

In May of 1998 the company was acquired by Cisco Systems, and my startup options converted to Cisco options numbering roughly 3,000 total. A drop in the bucket compared to what management was issued, but a very healthy number for a rank-and-file employee like me. And over the next two years the stock split 2-for-1 twice, and 3-for 2 once, for an effective 6X increase, bringing my ISO total to 18,000!

Due to the death of my sister after a long battle with cancer I decided in March of 2000 to leave Cisco and take some time off, stay close to home, and spend time with my mother, who was then 85. It just so happened that my leaving Cisco coincided precisely with the high water mark for the stock market, with the result being

that the ISOs I had to “use or lose” within 90 days triggered a huge paper gain which ultimately resulted in over \$225,000 in AMT liability. Unfortunately by the time the tax came due in April of 2001 the value of the stock had dropped by roughly 80% from its high point a year earlier, with the result being my tax bill exceeded the value of the stock assets that triggered it!

I never sold any of the stock, never had any money whatsoever pass through my hands, never in any way benefited from owning the stock, yet I was about to be wiped out simply from exercising and holding on to what appeared to be an excellent investment in a very good company with real products used by organizations of every kind worldwide!

I filed my year 2000 Federal return with an installment plan, but it was rejected due to the large amount of the tax liability. I called the IRS and attempted to expedite processing of my case, but was told I was “in the queue and would just have to wait to be contacted by someone in IRS Collections”. For the next year while waiting for that contact on my own initiative as a sign of good faith I made monthly payments which ultimately totaled over \$67,000 toward my pending tax bill! Finally in late June 2002 I was contacted by a local Revenue Officer who was unwilling or unable to discuss anything other than collection of my assets, so I engaged a former IRS Collections Officer practicing as an “Enrolled Agent” and submitted an Offer In Compromise (OIC) in July 2002.

Cisco, Nortel and other large employers in the RTP area of North Carolina had not only stopped hiring, they had laid off thousands of workers, flooding the local job market with highly qualified job seekers. The tech job market had completely dried up, and not for lack of trying I had been unable to secure work. Save for a failed attempt to establish myself as an independent consultant which resulted in only a single paying job I remained largely unemployed for over 2 years and my tax bill (which had grown due to penalties and interest) exceeded my net worth by roughly 150%, yet my OIC was rejected at the field level due to an insistence that I could pay it off in total!

I was actually told in a letter from the IRS Offer Specialist handling my case that “Mr. Cole has the ability to pay the taxes outstanding in full and should withdraw his offer from consideration.—no offer amount is sufficient, and no offer would be accepted”. The Asset/Equity and Income/Expense tables the Offer Specialist used to justify that claim contained several computational errors, but the most egregious was that my “ability to pay” was substantiated by the Offer Specialist counting my remaining Cisco stock asset both as a source of ongoing monthly income, (to the tune of over \$5,000/month), as well as a lump sum asset. In other words, the stock was counted twice, with ongoing income from it assumed after it was liquidated!!

My representative pointed out this flawed logic to the Offer Specialist, but to no avail: The OIC was rejected at the field level. I appealed, and after another 13 months the IRS Appeals office finally accepted my OIC, but only after adjusting it to a dollar amount that reflected my net worth at that time, with terms of 50% of the settlement amount to be paid within 30 days, another 25% within 120 days, and the final 25% within 240 days. I was able to make the first (50%) and second (25%) payments, but I have not been able to find more gainful employment, and at this point am unsure exactly how I’m going to make the final 25% payment, which is due mid August, 2005.

I filed and paid all my state and federal taxes for the last ten years, and have no outstanding tax issues other than these problems associated with ISO transactions from the year 2000. I was finally able to find full time employment in August 2003, yet ironically back at Cisco, working in a group which has been outsourced to a vendor which pays less than a 1/3 what I was making when I was previously a direct Cisco employee. I am grateful to have the job, yet the income barely pays my basic living expenses, and now on top of dealing with the final OIC payment I’m also trapped in a cycle of credit card debt, with high interest rates and monthly service charges. I have been trying to build on being back in the tech workplace and find more gainful employment, but to date have been unable to do so. I guess I’m one of the few lucky ones who have been able to secure an OIC settlement, but at this point it doesn’t feel that way; I just don’t know how I’m going to make ends meet going forward.

The payments I made proactively toward my year 2000 tax bill and the OIC settlement amount total up to about \$180,000. Ironically, I have an AMT Credit available which can offset regular income tax for years to come, yet the IRS would not consider that credit as an asset to be considered as part of an OIC settlement, and due to the relatively small yearly income I make now I can’t take significant advantage of that credit. The one thing that could help me stay afloat would be to return some or all of that AMT credit sooner. I implore you to consider that avenue of relief.

Thank you for taking the time to consider my case, and of those in similar situations.

Sincerely,

John Cole

Richardson, Texas 75080
August 31, 2005

Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Dear Honorable Chairman Camp and Ranking Member McNulty:

We have submitted our story in the past and are hoping to garner your support and leadership for the Honorable Sam Johnson's bill 3385 on September 20, 2005 at the Committee for Ways and Means.

My husband, Jerry and I live in Richardson, Texas where Jerry owns and manages Canyon Creek Art & Frame. In April of 1999, I joined Avanex Corporation and accepted a lower salary in lieu of an Incentive Stock Option grant. I was unfamiliar with ISOs but it was explained to me that someday the company might go public and that the stock could potentially provide a small gain or contribute nicely to a retirement fund.

The company went public in February of 2000, and like many companies in that same year, did surprisingly well. It was scary and exhilarating all at the same time. The company advised their employees to talk to a financial advisor regarding long-term capital gains, short-term capital gains and AMT. We consulted a tax accountant, who told us we needed to be concerned about the capital gains, but that AMT was only for the very wealthy and we did not qualify. The tax accountant explained that we should buy what we could and hold it to protect against short-term capital gains. Later that year a coworker mentioned the need to check out the AMT situation and again we inquired with our tax advisor and again he assured us that we had nothing to worry about.

We soon discovered that he was incorrect and we were truly uninformed about AMT. When we finally discovered the problem, it was too late to sell as the stock-trading window had closed and before the next open window arrived, the stock had plummeted. Our tax bill came to \$92,000, more than double my starting annual income, and in order to pay the bill, we were worried we might have to take out a second mortgage and may lose our business. Fortunately, for our financial future, during the next open window, we were able to sell all our stock and pay most of the bill. By depleting our savings, we were able to pay the remaining balance. Now, with no savings and the hope of a small retirement fund from our ISO grant gone, we are starting over with retirement planning.

We are outraged that the government saw fit to apply a tax to phantom money! We are outraged that we now have NO savings and NO retirement!

I respectfully and urgently request your support of H.R. 3385.

Very Sincerely,

Barbara Cornelius

Cumberland, Rhode Island 02864
August 31, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty,

I have submitted my testimony and shared my story at the following: 6-15-2004, Hearing on Tax Simplification, Oversight sub-Committee 9-23-2004, Hearing on Select Tax Issues, Select Revenue Measures sub-Committee 6-08-2005, Hearing on Tax Reform, Full Committee April/May 2005, Senate Finance Committee Chairman Grassley Spring/Summer 2005, President's Tax Reform Advisory Panel

I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

My name is Joyce Curcio and I am submitting this statement on behalf of my husband, Matthew Curcio. We, along with so many others, have been affected by the Alternative Minimum Tax and I would like to share with you our particular story.

Matthew and I were living in San Francisco in 1998 when he obtained a position with Biomarin Pharmaceuticals based in Marin County, CA. He was a biochemist, earning roughly \$50,000 per year. He also received Incentive Stock Options (ISOs). The market was doing fairly well at that time and Matthew thought about cashing in on some of the options. He was advised by a financial consultant for the company to hold onto the options which he did. Subsequently, the market took a large drop and the value of that stock was lowered considerably.

When tax time April 2000 came along, it came as a shock when we were told by our CPA that we now owed @\$20,000 to the state of California and @\$60,000 to the Federal Government. How was it possible to be taxed on so-called "income" that was never realized? We were completely incredulous as to why this was happening.

We paid off the state to satisfy that debt. The IRS bill was something we could not even fathom paying. We continued to receive threatening letters, with warning of liens, garnishing of wages and ultimate financial ruin. As long as we have been working citizens, we have duly paid our taxes, every year and in full. However, this tax seemed so unfair and unjust that we simply had to fight it. We contacted a tax attorney and looked into the OIC program. Subsequently, we moved back east to be closer to our families. Due to the move, as well as the slow process of this negotiation, our case is still in OIC in 2005. Our lives are literally at a standstill. We will owe a hefty legal bill when all of this is resolved. We are not able to purchase a home due to our outstanding tax bill and our "bad credit". The stress and strain this has put on us is unimaginable.

Please, I urge you to take action and reform this outdated tax code and lift the burden for so many hard-working American like ourselves.

Joyce Curcio

Alameda, California 94052
August 31, 2005

Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Dear Committee on Ways & Means:

My name is Eric Delore and I am writing on behalf of myself and my family to ask for your active support and co-sponsorship of H.R. 3385. I have a huge Alternative Minimum Tax (AMT) tax debt incurred on "phantom" gains due to the application of the Alternative Minimum Tax to incentive stock options (ISOs). I owe \$420,000 of AMT on under \$5,000 of actual income derived from the sale of frightfully deflated Incentive Stock Options (ISOs). I am not wealthy. I am a middle-class citizen struggling to raise a family on a single income.

I have already paid the IRS \$40,000+ of taxes, but they want more. They want everything. One collection agent suggested that I sell my home and give them all the proceeds. Bear in mind that by raiding various immediate and extended family bank accounts, I have already paid the California State Franchise Tax Board \$100,000 of AMT tax on this same \$5,000 of income. That more than \$140,000 of taxes paid to date.

Again, I would like to ask for your active support and co-sponsorship of H.R. 3385. This important legislation was recently introduced by Reps. Johnson (TX), Neal, McCrery, Jefferson, Ramstad, Lofgren, Shaw, Honda and Johnson (CT), to provide relief for taxpayers subjected to unfair and unjust tax treatment due to the AMT treatment ISOs. In addition to unfairly affecting me, this serious problem has impacted many employees of small and large companies across America, often resulting in taxes up to and exceeding 300 percent of these employees' annual salaries. Workers are being forced to pay tens of thousands, hundreds of thousands, and even millions of dollars in tax overpayments on income they will never receive.

Please join the groundswell of support for remedying this serious injustice through this ISO AMT legislation. This bi-partisan effort is building support in Congress, the Press, Corporate America, the Taxpayer Advocate's office. Grassroots organizations like the ReformAMT, www.reformamt.org, and the Coalition for Tax Fairness, www.fair-iso.org, are actively supporting this important legislation, and may be contacting your office to secure your support.

I thank you for your leadership this effort, as your support is critical to restoring a fair and just tax system for all Americans—including hardworking, entrepre-

neurial Americans. Please do not hesitate to contact me at if you have any questions.

Sincerely,

Eric Delore

Statement of Sally Foster, Dunwoody, Georgia

My name is Sally Foster and I am writing on behalf of my mother Vera and myself. We appreciate the opportunity to discuss the hardships we are suffering due to an outdated and complicated portion of the tax code called Alternative Minimum Tax (AMT). I reside in Georgia's 4th district which is represented by the Honorable Cynthia McKinney.

In March of 1997, I took a job as the Vice President of Customer Support with a small software company in Atlanta, GA called Clarus Corporation (formerly SQL Financials, Inc.) The company gave Incentive Stock Options (ISOs) to the employees as a means of being competitive in the marketplace with other firms and also to provide the employees with an opportunity to become shareholders of the company. I held various positions of responsibility over the years with Clarus Corporation and ended my tenure with them as a General Manager of the business. I departed Clarus Corporation to become a President and CEO of a dot com company in November 1999.

At the time of my departure from Clarus, I had 18,000 ISOs priced at \$3.67 and I had to exercise them within 90 days of my departure or they would be forfeited. I consulted with my tax accountant at the time and he advised me that I should exercise them in January 2000 which I did. I asked him to advise me of all the tax ramifications of exercising the options and he never mentioned AMT implications of exercising the stock options.

In March 2001, my tax accountant called me and said that my AMT liability was over \$520,000 plus penalty and interest based on the fair market value of \$1,584,000 (18,000 options at \$88.00 per share) on the date I exercised them. By this time the value of those exercised options had already become worthless. My indebtedness to the IRS was over \$520,000 plus penalty and interest. Although I have tax credits I will never be able to use the majority of them during my lifetime. I have always been a responsible taxpayer and have always paid my taxes on time.

When I was notified by my tax accountant of this enormous AMT liability, I decided to sue him based on his failure to advise me of the AMT implications in time for me to take the necessary actions to sell the stock and pay the appropriate tax. In order to sue him, I had to retain a contingency fee attorney because I could not afford to pay the legal fees that would be necessary to bring the case to trial. The case settled in 2002 and once I paid the legal fees and proceeds tax liability the remaining amount was less than 20% of my AMT liability.

In April 2001, I engaged the services of a collections consultant and that consultant assisted me in negotiating an installment agreement with the IRS collections officer and I am currently paying under that agreement on a monthly basis. The IRS advised me that they were planning to place a lien on my house. Additionally, I am required to file yearly financial statements with them so they are aware of every asset I have for purposes of satisfying my AMT liability. I applied for an offer in compromise (OIC) and it was rejected by the IRS. My collections consultant agrees that this situation is outrageous and unfair but it is within the guidelines of the current flawed law.

I have been financially ruined and it does not appear that I will live long enough to ever use the AMT credits. I am the sole support of my 81 year old mother and the stress this has caused me and my family over the last several years has been enormous. When I was advised of the AMT liability in 2001 I was also unemployed which added to the financial stress. I have subsequently become employed but under the current tax law I have no hope of being able to utilize the AMT tax credits during my lifetime. Please pass H.R. 3385 which will enable me to receive these credits back during my lifetime.

Everyone who has reviewed my case is amazed and puzzled by the unfairness of the way I am being treated due to this portion of the tax code being so little understood and very outdated. There is no one who seems to be able to right this egregious situation and my mother and I plead with you and your Committee members to please help us to rectify this horrible predicament.

I appeal to the committee members to do the right thing for honest law abiding Americans like myself (who have always paid their taxes and been financially responsible) and pass H.R. 3385.

Statement from Ellen Fowler, Hampton, New Hampshire

I am one of the many thousands of middle income Americans who have been adversely affected by the current AMT law.

I was a single parent who has raised two children on a single income. Prior to joining a start-up technology company in 1996, I had no retirement funds and was facing college bills for two children. When I joined the start-up I was offered stock options as part of my overall compensation. I had hoped these options would help pay for college and eventually fund my retirement.

Early in 2001 I planned to exercise and sell my options. I received tax advice that it was best to exercise the options and hold them for a year to benefit from the long-term cap gains tax rate (just as Congress had intended). Like many others, I followed that advice. Shortly thereafter, the bottom fell out of the stock market—luckily I managed to sell a portion of my stock options before they lost all of the 90% value that they decreased. However, I wasn't lucky enough to prevent a significant tax burden.

I earn \$90,000 annually, as a result of the stock options that I exercised, my 2001 federal tax bill was \$207,000. (\$190,000 was my portion, the balance was my husband's portion, we were married in Nov. 2000). I was shocked and unable to pay the entire tax bill that year. I used all of the proceeds from the stock that I sold earlier in the year. Additionally I took out an equity loan on my home to pay my taxes. I was unable to help pay college bills as I had hoped and planned. However, I feel like I'm lucky because I didn't have to sell my home outright as others have had to do to pay their AMT debt.

This is an unintended consequence of the AMT laws. I paid a huge amount of money on a phantom gain—money that I never saw and never will see. The IRS now has a large sum of money which is in essence a pre payment of taxes on income that I will never earn. I'm 56 years old—this situation has wiped out most of my retirement fund and at this stage of life I cannot make enough money to ever receive the tax credits from this prepayment.

How is it possible that I had to pay 2 times my annual salary on taxes, especially knowing that I never received the value of the options I exercised. The money never came to me—it was an inflated value on a piece of paper. If I had sold them and actually received the money, that is a very different matter, the IRS should absolutely receive its portion. But in the case of ISOs during this time, thousands of hard working Americans paid huge taxes on money they never received. This is not why AMT was established. This is not the intent of American tax laws.

I urge you to reform AMT and help the thousands who have been so negatively affected. The best place to start is by refunding my AMT tax. It would significantly enhance the quality of my life—by allowing me to fund my own retirement instead of relying on government programs—in the long run it would be best for the government/country as well.

Thank you for your time and consideration.

Cary, North Carolina 27511
August 31, 2005

To House Ways and Means Committee

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have submitted my testimony and shared my story at these following events

- 6/15/2004 Hearing on Tax Simplification, Oversight sub-Committee
- 6/23/2004 Hearing on Select Tax Issues, Select Revenue Measures sub-Committee
- 6/08/2005, Hearing on Tax Reform, Full Committee
- April/May 2005 Senate Finance Committee Chairman Grassley
- Spring/Summer 2005 President's Tax Reform Advisory Panel

I now wish to share my story directly with you. I hope this committee will extend the relief H.R. 3385 offers people that executed Incentive Stock Options (ISO) in

years 1999, 2000, and 2001 to people that executed NonQualified (NQ) stock options in those same years. H.R. 3385 will not help my situation, because H.R. 3385 requires a person to have "ATM credit." I have no ATM credit, since my stock options were NQ, but I suffer the same detrimental effects of executing stock options in year 2000.

I am in a very bad situation because of the tax liabilities that were generated in year 2000. Because of the economic down turn of the telecommunication industry, I was laid off from Cisco in March of 2000. This situation forced me to execute the NonQualified (NQ) stock options I had accumulated over the 5+ years I had worked at Cisco, or lose them forever.

I did not know that the single act of executing NQ stock options becomes a taxable event in the eyes of the IRS. I did not sell stock; I did not receive any cash; I did not realize any gain whatsoever in the transaction—not a single dime! I only executed the option to buy Cisco stock at a price offered to me when I was hired.

Because of the complexity of the tax laws, I paid a CPA \$900 to prepare my taxes and tell me I owed \$1.7 million in taxes for the year 2000 even though I make less than \$100,000 a year! How can this be? The CPA office that prepared my taxes commented to me:

"This is the most unfair and unfortunate tax return our office has ever prepared. Many officers have verified the accuracy of your return and we believe it to be correct."

I was a habitual saver and lived a very meager lifestyle. At the time I executed the NQ stock options, I lived in a 1,400 sqft house with my wife a dog and a cat. I drove a 1979 F100 pickup, no air, manual steering, 3 speed on the column, 160,000 miles—worth about \$600. My wife drove a 1987 Olds Cutlass with 224,000 miles. I did not live the life of our executives—I was just an engineer trying to save for a brighter future.

The Cisco stock that I bought declined more than 80% in 2000 and 2001. I sold everything and took out multiple loans to pay the IRS. Because of my prior savings, my meager lifestyle, and the kindness of my bank; the IRS received the money April of 2001. My bank has given me two interest only loans. Today I live in a 60 X 14 trailer by myself. My wife and I divorced in 2004. I still drive the same Ford pickup (over 270,000 miles now). 70% of my salary goes to maintaining these loans, which I have been paying for over 4 years now.

This unfortunate situation has taken my financial future from me. I am addressing this letter to you so that you may know how this stealth tax is destroying the lives of so many common people, like me. It is just plain wrong to tax people of all their assets when they have realized no financial gain whatsoever.

Kevin R. Frank

Statement of Scott Frisoni, Chicago, Illinois

In 2000, I exercised stock options with the company I work for, PurchasePro.com. As the stock market continued to fall, I was forced to sell my stock well below the price I paid for them to pay my 2000 AMT bill. I paid my 2000 AMT taxes in the amount of \$286,000 after getting nothing back from the sale of my stock. I was married in December of 2000 and our family has been set back a great deal financially. I had to sell many of my assets and borrow a large amount against my house. We are way too young to have financial problems for the rest of our lives. The way current tax code is written it will take 43 years before I get all of my money back without interest! I am now stuck holding onto thousand of shares of a company that is out of business with NO HOPE of recouping my money.

Madison, Wisconsin 53703
August 26, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I am writing to ask for your support and would appreciate your taking a moment to read this. I have submitted my testimony and shared my story for previous hearings regarding this issue. I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

I'm currently 43 years old and have worked very hard for 9 years for a start-up Internet Service Provider that was successful. In 1999 I left the company to move back to Wisconsin to be with family and raise my own family. When I left the company I was required to exercise my stock options (WorldCom stock).

Doing so caused us to incur an AMT liability well in excess of \$1million, which we paid in April 2000. It's now well known that the WorldCom stock lost virtually all its value. Our AMT tax payment is now a credit (amounting to an interest-free loan to the government) that we can never effectively use because the ways in which we can draw it down are too restricted. In essence, we've lost almost all of our investment money simply to create a tax credit in our IRS account. It is fundamentally unfair to have been forced to pay a large AMT bill on a phantom gain rather than an actual gain.

Along with many of my co-workers and friends, I now find myself in this situation, many others are much worse off. Several of us had to declare bankruptcy and others are forced to sell or liquidate assets (including college funds, savings, cars, 401k/IRA pension plans, homes, etc.) or to refinance homes to help pay the taxes. In our case, we had to liquidate our life savings and obtain a loan secured by my in-law's assets to pay our tax bill, we're now deferring college and retirement savings as we pay back this loan with its interest—all while we have \$1 million tax credit. We're hardworking, honest taxpayers who are incurring financial difficulties due to the unintended consequences of the AMT laws.

To summarize, it's fundamentally unfair that we have provided the government a substantial (over 1 million dollars) interest free loan that will never be repaid while we're having to pay off a loan with interest and defer college and retirement savings. Further aggravating the unfair situation, the complexities of the AMT law require us, an average middle-class family, to pay premium accounting fees to navigate the complexities of our tax situation.

I respectfully and urgently request your support of H.R. 3385.

Shari Galitzer

Statement from Sunil Ganu, Santa Clara, California

My life is changed because of the alternative minimum tax (AMT). I am suffering from acute panic disorder and stress. If my age is X, I look like X+10 years, thanks to this AMT. Moreover, people think either I was either greedy or stupid. I never did anything wrong in my life to have all this trouble. My credit scores are 758+. I always paid my credit card balances and loan amounts on time. I followed the advice of my advisors at Morgan Stanley. They advised me not to sell the stock I purchased through the exercise of incentive stock options (ISOs) earlier—but there is no point in blaming anybody now. It's my mistake and it seems nobody can save me now. I have already paid more than \$150,000 in AMT from the tangible assets I had and owe substantially more. My AMT credits will exceed \$400K, which I will only be able to claim at a rate of \$3000 per year for rest of my life or 133 years.

I exercised (bought) 15,000 ISO shares I couldn't sell most of them before the company (Exodus Communications) filed for chapter 11, as I hadn't owned the shares for at least one year. Initially I paid \$110K in AMT by selling some of the stocks at \$15.00 per share in 2001, remember now, I was taxed as if I sold them for \$76 a share! I didn't realize that my company would be bankrupt soon. I still owe \$150K plus penalties. The IRS has kept all my refunds—worth about \$45K in the last 3 years—but penalties keep accruing.

I have tried to negotiate with the IRS but we are rejected on every offer I made. My first OIC was turned down in 2002. I have appealed to the IRS again and increased the amount of my OIC. That too was turned down in April 2003. The IRS evaluation process is faulty. They are looking for all the money available in my 401(k) plan apart from whatever assets assessments are done based upon my car, credit cards statements etc. Though I don't have any bank balances, the IRS already put a lien on my Condo and basically I will be in a debt trap if I borrow from my credit card to pay off IRS as the interest rates are so high. The important point is that the IRS is seeking all this money for income I never realized. What a nightmare! Meanwhile I got laid off in August 2003. Luckily I got a job in another company with a lower salary in 3 months. The trauma I went through during that time is unimaginable.

Please do what is necessary to reform the draconian provisions of the law. Morally I don't believe I owe anything to the IRS but then legally and financially I have a sword hanging over my head.

Aloha, Oregon 97007
August 31, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have submitted my testimony and shared my story at these following events:
Ways and Means Committee Hearings:

- 6-15-2004, Hearing on Tax Simplification, Oversight sub-Committee
- 9-23-2004, Hearing on Select Tax Issues, Select Revenue Measures sub-Committee
- 6-08-2005, Hearing on Tax Reform, Full Committee
- April/May 2005, Senate Finance Committee Chairman Grassley
- Spring/Summer 2005, President's Tax Reform Advisory Panel

We now wish to share our story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

We are Liles and Naomi Garcia and we are homeowners. Liles was in the Air Force for four years, and has worked for three high-technology companies for a total of thirty years. Naomi has worked for a high-technology company, Tektronix, Inc, for thirty two years.

When Liles was working for PMC-Sierra, Inc, the company gave him some stock options which often occurs in high technology companies. At the end of September, 1999, PMC-Sierra laid off some employees and Liles was terminated at this layoff. There was no warning of the PMC-Sierra layoff; it was a complete surprise. Because of the layoff termination, Liles had to purchase his stock options within a short period of time or else lose them.

At that time the stocks were worth about \$965,000.00, and when Liles purchased his stock, we unknowingly incurred a \$273,000 Alternative Minimum Tax. We have been doing our own income taxes for many years, and did not know what the AMT was.

We submitted an Offer-in-Compromise to the IRS in July, 2001. The IRS rejected our OIC and an OIC Appeals Officer told us that he would only settle for the entire amount. This decision devastated both of us because of the large amount that we will be required to pay. We are currently making monthly payments to the IRS, but we still owe more money than we will ever be able to pay. The IRS can take everything that we have through their collection process. To us, this does not seem right. Many thanks for any help that your committee can give us. We respectfully and urgently request your support of H.R. 3385.

Liles and Naomi Garcia

Southbury, Connecticut 06488
August 30, 2005

Dear Chairman Camp and Ranking Member McNulty:

I have submitted my testimony and shared my story at the following events: Spring/Summer 2005, President's Tax Reform Advisory Panel and the 6/08/2005 Hearing on Tax Reform, Full Committee. As a resident of the 5th Congressional District, I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

As a 64 year old retired taxpayer the current alternative minimum tax is of great concern. Each year more and more Americans fall prey to this unfair tax. Approximately five years ago, because of the ISO AMT provision, I incurred a huge federal and state tax bill, which I paid. The year following my huge tax overpayment my accountant informed me that I would have to live another 60 years to recoup my AMT credit. This was hard for me to believe! Five years have since passed and I have reduced my AMT credit by about 8%. At age 64, I do not believe that I will last another 60 years. The federal government continues to hold my money without paying me one penny of interest. Once I leave this earth my AMT tax credit will become property of U.S. Treasury coffers. The credit will not be passed on to my heirs. Does this seem fair?

One thing that I do know is that my federal tax credit will follow me no matter where I reside in the United States. This is not true on the state side. If I move out of Connecticut I lose my ability to recoup my state AMT tax credit. This foolish law that was intended to prevent wealthy individuals from escaping federal income tax has become a burden to the all classes of taxpayers.

I respectfully and urgently request your support of H.R. 3385.

Leonard P. Garille

Paso Robles, California 93446
August 30, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have submitted my testimony and shared my story with the President's Advisory Panel On Tax Reform on April 29th, 2005. I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385. The following describes the devastating effect the AMT has had and is still having on me and my wife.

My wife received stock options from her company as part of her compensation for all her hard work. Throughout the year in 2000, we saved money and used it to exercise the options. We considered the tax implications of selling or holding. We were advised and agreed to follow the strong tax incentives Congress put in place for ISOs to hold on to the stock for long term capital gain and support her company, rather than selling immediately and paying approximately \$50,000 more in short term taxes. We believed strongly and still do in our company, and in the market for the long term, looking to accumulate stock and other assets for our future and for our eventual retirement.

In 2001, the market's steep decline reduced the value of our stock by over 90%. To make matters worse, we received a tax bill from the IRS and the California Franchise Tax Bureau (FTB) for a combined amount of close to \$150,000. **This was over 5 times the amount we realized from our stock holdings.** We had never heard of the AMT, nor could we have ever imagined we would have to pay taxes on stock GAINS WE NEVER REALIZED.

Our situation grew steadily worse, I lost my job, our savings were dwindling quickly, and we started getting calls from IRS and FTB collection agents demanding that we pay the taxes due. We could barely pay our bills much less pay \$150,000 in cash to the IRS and the State of California. The IRS had suggested an installment agreement, but the \$3,800 a month they required was far beyond anything we could afford. We were also warned that if we accepted the agreement and missed or were late on a single payment, the full amount would be due immediately and collection actions would be taken, i.e. seizing of assets and property.

The IRS knew we never made the money on the stocks for which we were being taxed, but that didn't matter to them. They were aware I had been unemployed for 18 months, and they didn't care. They said I had the potential to earn, which in their mind is the same as cash.

Meanwhile, we tried to refinance our home to lower our payments so we could have additional money to pay bills, but the IRS had placed a lien on our property and we were denied the opportunity to take advantage of the lowest interest rates in history. The IRS refused to lift the lien, even temporarily, to allow us to refinance.

We were forced to hire tax attorneys and CPA's to help us with our predicament, all to no avail. We submitted an Offer In Compromise. We were rejected, the IRS claimed we had the ability to pay, even though I had been unemployed for over a year and a half and had been dipping into my home equity line of credit just to survive and pay our bills. For over three years we lived in constant fear of losing our home, our car, our bank accounts, everything. All the while dealing with harassing calls from the IRS and the FTB. My wife was afraid we'd be sent to prison for not paying the taxes. She had heard so many horror stories of what the IRS does to people who don't pay their taxes.

Having been an independent contractor for many years and using credit cards to pay for travel and business expenses, I had established a fairly high credit limit. The IRS told me that I had access to credit so PAY UP. I was forced into an installment agreement to keep from losing our home (the IRS had placed a lien on it). The IRS demanded \$50,000 in cash and monthly payments of \$730 per month to pay of the remaining \$74,000. I was forced into putting it on my credit card. Since the IRS compounds interest daily, we will never be able to pay off the balance in our lifetime. Prior to that, we had been forced into an installment agreement with the FTB, paying \$700 per month. There was no way we could pay both monthly payments, equaling over \$1,400 per month (remember, I had been unemployed for 18 months), so we were forced into paying the remaining \$18,000 balance due the FTB with my credit card to eliminate at least one of the monthly payments.

I was unable keep up with the credit card payments on an outstanding balance of close to \$70,000. Now, I am several months behind on credit card payments. The credit card companies and collection agencies are now making threatening calls daily. I'm now getting letters from attorneys on behalf of the credit card companies. My credit rating, which was perfect all my life, is now ruined. This nightmare just keeps going on and on—

I'm 51 years old and I should be turning my thoughts toward retirement and a comfortable future. My own government has dashed these hopes and dreams forever. We are being punished in the worst way possible, and our crime? Our crime was working hard and being honest. I always felt that these were the values that America embraced. Study hard, get a good education, get a good job, work hard, be honest and be rewarded. Unless relief comes quickly, I will have been sadly mistaken.

This law needs to be changed immediately to help the thousands of people who are in the same predicament as my wife and I. We hope that you will understand that there are some very good people who have been caught in the AMT nightmare and are facing financial ruin for the rest of their lives. Please show your leadership and do what you can to change this law.

I respectfully and urgently request your support of H.R. 3385.

Very Sincerely,

Mark Garner

Redwood City, California 94065
August 25, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have submitted my testimony and shared my story at these following events:

- 6-15-2004, Hearing on Tax Simplification, Oversight sub-Committee
- 9-23-2004, Hearing on Select Tax Issues, Select Revenue Measures sub-Committee
- 6-08-2005, Hearing on Tax Reform, Full Committee
- April/May 2005, Senate Finance Committee Chairman Grassley
- Spring/Summer 2005, President's Tax Reform Advisory Panel

I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's **H.R. 3385**.

My name is Hisham Ghazouli and I am writing on behalf of my wife Irma, and our two children. We appreciate the opportunity to discuss the hardships we are suffering due to an outdated and complicated portion of the tax code called the Alternative Minimum Tax.

In July 1998, I went to work for a startup in Redwood City, Ca. In exchange for a lower paying job, I was granted 60,000 shares of incentive stock options. I worked very hard helping the company develop its product and grow. In Feb of 2000, the company went public and the stock quickly climbed to \$100. I could not exercise my options at the time because I was blocked from doing so. Approximately 6 months later, when the stock was trading around \$20, I decided to exercise my options and hold the stock for 18 months. By the end of the year the stock was trading at \$1.00 a share. I didn't know that exercising the stock options would trigger AMT, which taxes you on the day of exercise even though incentive stock options are not supposed to be taxed until sale. After filling out our tax returns, we realized that we had a \$33,000 AMT Federal tax bill and a \$6,000 state AMT tax bill. I was forced to pay taxes on stock options as if they were trading at \$20 a share regardless of the reality that the stock was trading at less than \$1 a share.

We had to liquidate all of our savings to pay for the AMT bill. That year we paid over \$65,000 in Federal taxes on income of \$100,000, which I am sure is an unintended consequence of the tax law. As of tax year 2003, I have received less than 10% of the AMT money I loaned the government in 2000. It will take another 5-10 years to fully recover the amount.

I don't believe that the law was intended to so severely tax hard working and honest middle class Americans. Please fix the law so that we don't have to pay taxes on income we don't receive, and we can access the "credits" in a more timely manner.

I respectfully and urgently request your support of **H.R. 3385**.

Hisham Ghazouli

San Jose, California 95120
 September 8, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty,

I would like to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

In the spring of 2000, while my husband was on medical leave of absence during a 3 year battle with cancer, we were notified that our tax bill for the year would amount to three times our annual income (over \$150,000!) due to the "AMT" tax. The tax, we were told, was based on stocks exercised, but not sold; we had not earned one cent of income on them (thus there would be additional taxes if/when the stocks were sold).

Our family (my husband, our two young children, and I) had been living on 65% of my husband's salary while he underwent multiple treatments. We took out a margin loan on the stocks he had been granted over the years by his employer in order to pay for these taxes.

By God's grace, my husband lived much longer than expected, but in December of 2001, he died.

However, as a widow and single mother, I am still paying for that loan to this day. In addition, I have just received an additional bill from the IRS, informing me I still owe over \$40,000, though my tax preparer has repeatedly sent in forms clarifying the matter.

Please understand that the purpose of this letter is not to incur your pity; we are not tax evaders and are not asking for handouts. We have always tried to be responsible American citizens, as well as to bring up our children to honor this country and its government. The purpose of sharing our story is to shed light on an abuse of power and justice which can breed resentment and disobedience, instead of encouraging allegiance and honesty. We pray for God's blessings on this country, but we must also ALL do our part to act justly and love mercy.

Thank you for your consideration.

I respectfully and urgently request your support of H.R. 3385.

Very Sincerely,

Patricia Gonda-Sayre

Statement of Nadezhda Gorokhov, Germantown, Maryland

Members of the Committee. My name is Mark Gorokhov and I am writing on behalf of my wife Nadezhda Gorokhova and our family. We appreciate the opportunity to discuss problems we faced due to an outdated and not fair portion of the tax code called Alternative Minimum Tax.

In August of 1998 I took a job as a software engineer at Celera Genomics. The offer letter stated that I was granted a stock option (ISO). The essence of employee stock options involves employees sharing in the future growth and success of a company by receiving financial rewards based on future increases in stock price. In 2000 I exercised my Incentive Stock Option. In plain English this means that I bought my company stock at discounted rate \$8.56 while its market value was in \$70—\$100 range. When I exercised my ISO I did not have any monetary gain because I did not sell my stocks. However, the tax law required us paying huge AMT tax on this phantom gain. This had dramatic impact on our family. The total tax we had to pay significantly exceeded entire our family taxable income we reported on form 1040 for the year 2000. The effective tax rate was 130%.

The deadline to pay this huge sum to IRS was April 15, 2001. By that time stock price plunged and we could not pay our tax even we if sell all stocks we acquired. We borrowed all available money from my wife's and mine retirement investments, from 2nd mortgage and credit cards. Also, we emptied all our assets on bank accounts. In year 2004 we are still paying loans we made to pay tax year 2000.

The tax we paid for exercised ISO stocks is a prepayment of tax with a corresponding Minimum Tax Credit that applies against capital gains tax when we sell stocks. Now when the stock price drops we do not have an efficient way to recover the leftover excess pre-payment of tax. Thus we gave the federal government an interest free loan in the sum, which is over \$100,000.

In 2001 tax return we recovered \$2,433 from our AMT tax carry forward. At this pace it would take 51 years to recover the whole sum.

In 2002 tax rate was lowered, but AMT rate stayed the same. In 2002 tax return we recovered \$820 from our AMT tax carry forward. At this pace it would take 149 years to recover the whole sum.

In 2003 and 2004 tax rate was lowered again, but AMT rate stayed the same. In 2003 and 2004 tax return we recovered \$0 from our AMT tax carry forward. At this pace we NEVER recover the whole sum of credit we gave to a government.

We ask your help to change the outdated AMT tax law and help us to recover the AMT tax we paid in year 2000.

San Jose, California 95132
August 25, 2005

Dear Chairman Thomas and Committee Members,

I have been directly affected by AMT. I have worked for 18 years in California. During that time, I accumulated Incentive Stock Options from my previous employer, which I exercised at various times. The stock market dropped dramatically in 2001. Because of the current AMT tax laws, I was taxed based upon the value of his shares at the time I exercised them (approx. \$60/share), not on what they are worth when I sell them. The company I worked for and bought these shares in, Clarent Corporation, committed fraud and has since gone bankrupt and is out of business. As such, I have been unemployed since October of 2001. The stock is now all but completely worthless and I recently sold 12,080 shares at \$0.05/per share and received \$573. The stock currently trades at \$0.045/share, yet I paid approximately \$40,000 for the stock, had to get a second mortgage to cover a \$91,000 AMT tax bill and am now paying \$19 every day to pay off this loan, in addition to my first mortgage. To have had to pay a \$91,000 tax on a LOSS of \$40,000 is more than ridiculous. Further, should I regain employment and claim \$3000/year off of my taxes, I will never live long enough to use my tax 'credit', minus of course the interest I will have paid over the life of the second loan. I was also subject to trading windows where selling the stock was prohibited for six months, only open to trading three weeks out of every quarter, and the government encouraged me to hold on to the stock for at least one year for long-term capitol gains. Even though I have owned my house for 13 years and was paying my 30-year mortgage off at a 22-year rate, I now owe over \$80,000 more then when I first purchased my house in 1991. I am one of literally thousands in this country right now who are in a similar or worse position.

The citizens affected by the AMT are not looking to avoid taxes, only to pay their fair share. Please work to retroactively reform the tax code regarding the AMT. Changes to this law must be made now in order to save the savings, homes and futures of many families. These are people working on the cutting edge of technological industries that will be our future—their success will be our success. Please help.

Howard Greenstein

Allen, Texas 75013
August 31, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have submitted my testimony and shared my story at these following events June 2004.

I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385. I live in his district. This is my previous statement:

I do telecommunications development for Cisco Systems. No one would likely call me financially rich, but I am a very blessed man with a wife and 2 adopted daughters.

I have ISOs from Cisco that I could exercise and, according to one part of the tax code, I should receive preferential tax treatment if I hold the stock for at least a year. Truth be told, I think the smarter investment would be to buy the stock and hold it for at least 10 years.

However, with the present ISO AMT laws and with fluctuations in telecommunication stock prices, I can not make such smart investment choices (buy Cisco and hold for 10 years) because the stock price may go down temporarily, and I would owe more in taxes than the stock is worth. It doesn't make sense that on the one

hand the tax law would encourage my long term investment (which, under normal circumstances would be a wise strategy for me, my employer and the economy), but on the other hand the tax law so heavily discourages such long term investment by mandating taxpayers risk losing more than their investment to acquire the stock.

Please bring sense to these laws. Thank you.

Duane Guthrie

Statement of Angela Hartley, San Diego, California

I have submitted my testimony and shared my story at several Congressional hearings, include written testimony for April 17, 2005 and July 28, 2005 hearings. I will share my story again in support of the Honorable Sam Johnson's H.R. 3385—it is my last hope for financial survival. Please support this bill.

In 2000, few people were even aware of the AMT, and even fewer understood it, including many tax professionals and even some IRS agents. When I exercised Incentive Stock Options in 2000, I followed the standard recommendation of holding that stock for one full year to achieve the capital gains treatment for which Incentive Stock Options had originally been designed. Imagine my surprise when I discovered that there was a parallel universe called the AMT, where the rules were opposite of common sense and regular IRS rules, and instead of benefiting from long term capital gains treatment like an ordinary stockholder, I was penalized for NOT selling my stock.

As a result, my effective tax rate for 2000 was almost 250% and left me with state and federal tax obligations well over \$300,000. This was impossible to pay because it was many times my annual income and the stock had dropped to a fraction of its former value. Although I have made payments against the debt, it grows too rapidly to ever pay off.

The irony is that the AMT also allows a credit back to me that would offset this liability—but there is a cap on the amount of credit I can recover each year—it will take over 90 years for me to gain the entire credit back, and unlike *my* AMT liability to the government, I receive no interest on the money owed back to me by the government. So my debt grows by leaps and bounds and the government holds my money interest-free indefinitely.

I have offered all the equity in my 1500 square foot home, my car, my life savings, and my retirement to settle this—everything I have managed to put aside over my entire working life to pay arbitrary and excessive taxes on profits I did not receive (by the way, the IRS refused this offer as insufficient). Actually, after paying over \$100,000 so far, I have only about \$11,000 left out of my savings/retirement and the IRS has a lien on my house, which also serves to ruin my credit. I am 52 years old and have been a compliant taxpayer since I earned my first dollar, paying in full and on time, without complaint, but I fail to see how bringing an honest middle-class taxpayer to financial ruin serves any purpose.

Legislation is being introduced that would allow me to pay the proper percentage of whatever gains were actually realized from the stock sale. While I realize the entire AMT needs to be addressed, the first logical step would be to support relief for those who have suffered the most unfair and egregious effects of this outdated law. Please stop the unnecessary financial crippling of some of your most hard-working and productive citizens. We can't wait two or three more years—we are losing our homes, our retirement, and our entire economic futures today!! There is no way a "fix" several years from now will ever allow us to recover.

The AMT no longer serves its intended purpose, if it ever did, and is increasingly punishing hard-working families. We respectfully ask that each of you understand the enormous risk involved in ignoring this growing malignancy in our tax system, and take action now.

Statement of Hearing Industries Association, Alexandria, Virginia

The Need for Financial Assistance for those with Hearing Loss

The Hearing Industries Association (HIA), welcomes this opportunity to submit a statement on behalf of H.R. 414, the "Hearing Aid Assistance Tax Credit Act". HIA believes that H.R. 414, which would provide a tax credit of \$500 per ear, once every five years, to dependants and those 55 and older, is a necessary piece of legislation

that would enable those with hearing impairments to achieve a better quality of life by enabling them to afford the costs of hearing aid treatment.

Currently, there are an estimated 31.5 million Americans who experience hearing loss. According to the *MarkeTrak* report, the largest national consumer survey on hearing loss in America, while 95% of individuals with hearing loss could be successfully treated with hearing aids, only 22–23% currently use them. 30% of those with hearing loss who do not seek treatment cite financial constraints as one of the core reasons they do not own hearing aids.

The average cost of a hearing aid in 2004 was almost \$1,800. Since 68 percent of individuals with hearing loss need two hearing aids, the average cost is usually \$3,600 per person. This cost can be significantly higher if more advanced hearing aid models are selected.

Americans with hearing loss generally receive no financial assistance since Medicare expressly excludes hearing aids from coverage as do the vast majority of private insurance companies. *MarkeTrak* research indicates that 71.4% of all hearing aid purchases involve no third party payments whatsoever. The Veterans Administration is the most significant third-party provider of hearing aid coverage for Americans, however, this coverage is limited to military veterans.

The Economic Impact of Untreated Hearing Loss

Failure to treat hearing loss creates a myriad of problems including significantly reduced income potential for an individual. A study on “The Impact of Untreated Hearing Loss on Household Income” was released in August 2005 by the Better Hearing Institute (BHI), a research organization that examines hearing loss in the U.S. In the BHI survey of more than 40,000 households, untreated hearing loss was shown to negatively impact household income on average up to \$12,000 per year, depending on the severity of the hearing loss. For America’s 24 million hearing impaired who do not use hearing instruments, the impact of untreated hearing loss was quantified to be in excess of \$100 billion annually. Assuming the current 15% tax bracket, the cost to society could be in excess of \$18 billion in unrealized tax revenues.

Failure to treat hearing loss is especially devastating for children. Children who do not receive early intervention for hearing loss can cost schools an additional \$420,000 and are faced with overall lifetime costs estimated to be \$1 million in the areas of special education, lost wages and health complications, according to a study published in the “International Journal of Pediatric Otorhinolaryngology.” Children who receive early treatment, however, can thrive in the mainstream educational system. For this reason, the tax benefits of H.R. 414 that provide assistance for parents are of critical importance.

Passage of H.R. 414 would also provide much-needed financial help to older Americans who often face unique problems and financial concerns related to hearing loss. A recent Better Hearing Institute study focusing on citizens over 50 indicated that 67% of baby boomers and seniors indicate that cost was somewhat or definitely a reason for not purchasing hearing aids.

For older Americans, failure to treat hearing loss is linked to an increase in depression and anxiety. A 1999 study by the National Council on Aging demonstrated that those individuals who had their hearing loss treated experienced enhanced emotional and mental stability and reduced feelings of anger, anxiety, depression and paranoia. Given hearing aid treatment, older Americans can continue to lead productive and independent lives without missing out on much of what occurs around them.

HIA thanks the Ways and Means Subcommittee on Select Revenue Measures and its Chairman, Representative Dave Camp, for the opportunity to submit a statement on H.R. 414 and the important issue of hearing loss in America.

La Cañada Flintridge, California 91011
August 31, 2005

I am writing to beg you to change the tax code so that stories such as mine never happen again. You can help do so by approving ISO AMT Bill H.R. 3385.

When eToys was started in 1997, its founders quickly realized that it would be difficult to know their market if everyone that worked for them was a childless, young male. So it wasn’t surprising that they hired me as their 5th employee, a mid-thirties suburban mother with experience in marketing and website design. I only worked part-time, however, as I wanted to spend time with my young children. When the company was low on cash, they offered to give me part of my compensa-

tion in stock options. I didn't know anything about stock options, but accepted, knowing that whatever happened, I was there primarily because I really enjoyed my job.

The company went public in May, 1999, but because of a lockout period and a blackout period, we weren't able to sell any of our stock until February, 2000. In the meantime, I exercised as many shares as I could, sometimes when the stock was trading as high as \$68. I had also become a full-time employee, because the company decided it didn't want part-timers anymore.

Unfortunately, by February, 2000 I needed to sell my stock just to pay my tax bill. Even though my income for 1999 had been \$85,500, I had to pay an Alternative Minimum Tax of \$424,100 because I was taxed as if I'd had income as high as the price the stock was selling for each day I exercised my options.

Thankfully, the company's stock hadn't been de-listed yet, so I was able to sell my shares to pay my tax bill. I've been trying to get this money back from the IRS, so far to no avail.

I implore you to do what you can to do what you can to reform our nation's tax code so that this doesn't happen to anyone else. Taxation without income is wrong. Thankfully, so is taxation without representation, and I'm relying upon my representatives to do the right thing. Please vote "yes" on ISO AMT Bill H.R. 3385.

Kathryn C. Hernandez

New York, New York 10024
August 29, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I am writing to respectfully request your support of H.R. 3385, otherwise known as the "AMT Credit Fairness Act of 2005". I have submitted my testimony and shared my story at the following events:—Hearing on Tax Simplification, Oversight sub-Committee (6–15–2004)—Hearing on Select Tax Issues, Select Revenue Measures sub-Committee (9–23–2004)—Hearing on Tax Reform, Full Committee (6–08–2005)—Senate Finance Committee Chairman Grassley (April/May 2005)—President's Tax Reform Advisory Panel (Spring/Summer 2005) I wish to share my story in brief with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385: "I am yet another unsuspecting victim of the Alternative Minimum Tax. Due to a stock options exercise in 2000, I'm being taxed over \$1.2 Million on stock that yielded actual capital gains of approximately \$125,000.

I can't possibly afford to pay a tax on money I never received, yet the IRS seems unable or unwilling to work out a solution that is in line with the actual capital gain I realized. Four years has passed, and I've gone through a failed Offer in Compromise and seemingly endless paperwork in Tax Court. My wife and I are expecting our first child next month, and I have no idea how we'll ever cover our basic costs if the IRS starts garnishing my wages. I can't even begin to describe the negative impact this experience has had on my personal and professional life. I still hold hope that there is light at the end of the tunnel—I don't believe the AMT was ever intended to snare taxpayers for capital gains never received, and that's what this legislation can help remedy." I respectfully and urgently request your support of H.R. 3385.

Very Sincerely,

Tony Kadillak

Westminster, Massachusetts 01473
August 25, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have submitted my testimony and shared my story at these following events Spring/Summer 2005, President's Tax Reform Advisory Panel.

I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

I was contacted yesterday via email by an organization I have been associated with for the last several years known as ReformAMT (www.reformat.org). I joined this organization sometime after being hit with a substantial tax bill in the form of AMT tax in the tax year 2000. They have informed me of your panel and you're looking for input on the following items regarding current tax laws:

- Headaches, unnecessary complexity, and burdens that taxpayers—both Individual's and businesses—face because of the existing system.
- Aspects of the tax system that are unfair.
- Specific examples of how the tax code distorts important business or personal decisions.
- Goals that the Panel should try to achieve as it evaluates the existing tax system and recommends options for reform.

In regards to the following item:

- Headaches, unnecessary complexity, and burdens that taxpayers—both individuals and businesses—face because of the existing system.

I have worked most of my adult life at start up high technical companies which commonly issued stock options as a form of compensation. One grant I received in 1997 was for ISO options, the rest were for Non-Qualified options. It is the ISO options that have created my headache. With the ISO options the general prevailing philosophy on the sales of these options was to exercise them and hold them for at least a year so that they would be taxed as long term capital gains. This philosophy appears to have been a recipe for over taxation in the form of AMT tax when held in the context of the boom period of 1999—2001. While my employer held seminars on the implications that stock options had on potential tax burdens, we would be advised to consult with our own private tax consultant on our specific details. The problem is many tax consultants seemed to be inadequately informed on the matter of stock sales, ISO options and AMT tax implications. The result of attempting to do the correct thing for me to put myself in a tax situation where my ISO options would be taxable as long term gains resulted in being taxed on potential income that I have never made. Indeed four years later the stock my ISO's were granted in have still not approached the values that my AMT tax was based upon. I have since sold these shares to pay for my AMT obligation, but I am extremely disappointed at the opportunity lost. I am not an accountant and to this day still do not know what would have been the correct way to handle my ISO options.

I have continued to seek accounting help in this area several years after the fact, I have involved myself in the organization ReformAMT and hope that some day a clearer more representative taxation on my ISO sales will be implemented and I will have some restitution on my AMT taxes paid.

I am not a millionaire. I do not earn \$200,000.00 every year. I had several exceptional earnings years based upon stock options in the late 90's and early 2000. I am not now nor have I ever been close to bankruptcy. I have paid all my tax bills. I do believe that due to the current tax laws and lack of correct advice I have been overtaxed in the form of AMT tax on ISO options for profits I will never earn. I also feel that the government has impacted my ability to provide greater stability in the form of financial security to both my children and my spouse and I as we get older. This seems shameful to me that taxation laws could have this kind of impact on a family.

In regards to the following item:

- Aspects of the tax system that are unfair.

Any tax law that taxes people on potential future earnings and then does not return those taxes if the earnings are not realized is just plain unfair.

In regards to the following item:

- Specific examples of how the tax code distorts important business or personal decisions.

For me my important decisions had to do with funding my children's educations and providing for my wife and I in retirement. Due to the complexity and lack of correct advice in ISO/AMT matters my ability to properly plan for these items have been adversely impacted.

In regards to the following item:

- Goals that the Panel should try to achieve as it evaluates the existing tax system and recommends options for reform.

My primary goal for this panel is to recover AMT taxes assessed in the year 2000 for exercise of ISO stock options. My secondary goal would be obviously for others who have been impacted similarly to have there AMT recovered as well. My third goal would be a review of the AMT tax laws to see if they make since and due whatever it is they were originally intended to do. If they do a new less complicated method of implementing these needs to be developed. Currently the AMT taxation rules are even to complicated for most accountants to properly explain to clients.

While I have not commented on specifics of my AMT impact other than the time frames and personal feelings towards the issue, I would be more than happy to meet with the panel to discuss any specific detail of my AMT experience. I am not comfortable providing more specific details in this letter, as I am told it would be public record.

I respectfully and urgently request your support of H.R. 3385.

Todd Keen

San Leon, Texas 77539
August 26, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have submitted my testimony and shared my story at these following events (see below events/dates). I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

This Is My Story

I want to see if you can help by providing needed legislative Tax reform. Specifically the AMT, (Alternate Minimum Tax and Incentive Stock Options).

In 2002 I retired from a 20 year career in the pharmaceutical industry. IDEC Pharmaceuticals did very well and I received some ISO's. All the hard work and sacrifice was going to pay off and more. I was not in management. After 30 years of hard work I wanted to be at home with my Husband and children.

When I retired IDEC stock was trading at \$78 a share. My holdings were in ISO's (incentive stock options). When I retired, by company policy, I had to exercise my ISO's. I purchased my ISO's and held my stock. *Now understand, I did not cash this stock, did not realize wealth from this stock.*

In three months, summer of 2002, the ENRON collapse came. Its effect on the entire stock market was unbelievable. My share price went from \$78 to \$21. It would have been only troublesome, had I been able to wait out the recovery of the IDEC stock.

But I owed a tax on ISO's valued at 78\$ a share not 21\$. How can this be??? I never cashed the stock. No capital gain had been received.

April 15th of 2003 I was going to have a tax debt higher than the stock was worth and my ability to pay.

AMT tax was going to be due. AMT tax I owed for ISO's that were trading at \$78 a share were now trading at \$21 a share. In addition I would owe capital gain tax by selling the stock to pay the AMT tax. Double taxation!

I can not begin to tell you my disbelief, sadness, shock! I am an honest hard working middle class citizen. How could my government do this and legally?? My dreams were destroyed.

When the stock crept back up to \$40 a share I elected to sell all my stock. I would have enough money to pay my tax debt (AMT Tax and Capital gain tax) and pay my bills. I had little money left.

I was getting advice to take an extension to pay the IRS, ride out the stock market. But in light of the world events and the volatile nature of the market my husband and I elected to sell the stock and cut our losses.

We did not want to risk loosing our home by incurring debt to the IRS.

April 15th, 2003 I paid my tax owed, in Full. I did not take an extension with the IRS.

Now the IRS owes me \$239,000.

But the IRS doesn't have to pay me right now. I get a tax credit. The IRS doesn't have to give me penalties or interest on the amount. I receive a benefit of about \$11,000 credit back each year. I still have to pay money in to the IRS. At that rate I'll get my money back in about 30 years. If I owed the IRS that kind of money they would come take my home. Garnish my wages.

It is not just.

It's not right.

If I could have stayed in the stock market, sold my IDEC stock on an as needed basis and paid regular capital gain on the sell I would be in incredible financial shape today. What if??

Now my story isn't as extreme as others I know. I don't have any debt to the IRS and have not entered into court battles. It has not financially devastated me. But I have had to make decisions that have grossly affected my financial situation.

I went from \$1.2 million in IDEC ISO stock to \$40,000 in my Brokerage account. My Husband and I spend \$4,000 a month in household expenses. We both are work-

ing and saving for retirement. I am not an extravagant person. At present I have three children in College. My husband and I work to make the college payments and ends meet. My husband is retired Military and my son is starting his second tour in Iraq. I am an Oncology Nurse at MD Anderson.

What's done is done.

But why can't I have what the IRS owes us?

Not so much to ask.

I know we all live in a complex world and simple answers are hard to find. But enacting legislation that prohibits the IRS from owing money to tax payers is an easy fix. You have the power. I cannot believe that this is what the government intended with Tax Laws. We depend on you to protect us. Please make the IRS pay me the money they owe us. So we can invest that money to rebuild our family's future. PAY for college.

Debra N. Kelly and John A. Kelly Jr.

Note. This is a simplified version. For answers to any tax questions contact me and I will put you in contact with my attorney Scott Mitchell or AMT TAX Reform organization.

For your reference, these are the dates of past submission opportunities:

Ways and Means Committee Hearing

6-15-2004, Hearing on Tax Simplification, Oversight sub-Committee

9-23-2004, Hearing on Select Tax Issues, Select Revenue Measures sub-Committee

6-08-2005, Hearing on Tax Reform, Full Committee

April/May 2005, Senate Finance Committee Chairman Grassley

Spring/Summer 2005, President's Tax Reform Advisory Panel

Lakeland, Florida 33803

August 25, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I wish to take this opportunity to share my story with you and the other members of the Ways and Means committee, and to request your support for H.R. 3385.

The Alternative Minimum Tax, required to be paid in advance and in anticipation of profit, had had a profound effect on our family.

Our son, with a young family, was excited to be given stock options in Dragon Systems. When he was finally able to exercise these options, he invested 15,000 hard earned dollars. He was prohibited from selling these shares for a period of time, and during that time the company was sold, and the stock became worthless.

In the meantime, the IRS Tax form required that he check the box stating that he'd exercised his options. His tax burden on the 'unearned but anticipated profit' was an identical \$15,000. If our son had not had family to help pay this tax, he would have lost everything to the IRS for inability to pay.

This was over five years ago, and the IRS still has the \$15,000 in taxes he paid, but will never have a profit in his name to charge against his account.

I sincerely hope you can find it in your hearts to find a way to release these funds back to the hard working, honest individuals who have been adversely affected by the AMT by supporting H.R. 3385.

Beatrice C. Kempster

Milford, Massachusetts 01757

November 27, 2005

Honorable Representatives:

My name is Edward Kempster and I am writing you to ask for your support of H.R. 3385.

In December of 1999 I incurred an Alternative Minimum Tax (AMT) debt of approximately \$15,000 due to "phantom" gains made by incentive stock options (ISOs) I exercised. The presumption was that since I'd paid \$15,000 for the stock, and its "fair market value" was \$80,000, I had realized a gain of \$65,000 immediately upon the purchase. Even though it was at the time a privately held company and therefore it was impossible for me to have sold the stock and "cashed in" the gain! I was

incredulous to learn this, but being a good citizen I borrowed the \$15,000 from family members and paid my bill.

Shortly after I exercised my options, the company, at which I had worked for 6 years, Dragon Systems, Inc. of Newton, was acquired by a large Belgian concern, Lernout & Hauspie. Before I was permitted to sell the converted L&H stock, its trading was frozen due to accounting irregularities at Lernout & Hauspie. The stock later became valueless as the company went bankrupt and I lost the original \$15,000. I still owe my family the \$15,000 I borrowed to pay the AMT.

My understanding is that the IRS has this \$15,000 in an account in my name, to be credited against future gains. However, I am not an investor by trade. I do not make and lose fortunes each year, and therefore do not expect to ever have the opportunity to recover such "loans" to the IRS over time. I am simply a single father of 3 young children, doing my best each day to provide a reasonable standard of living for my family. After the dot-com bust of 5 years ago, I expect that many other Americans have also been heavily impacted by this antiquated tax regulation.

Thank you for your attention to this matter. It is critical to restoring a fair and just tax system for all Americans. Please do not hesitate to contact me should you require more information, and please feel free to use my story in whatever venue you deem appropriate.

Best regards,

Edward Kempster

Scottsdale, Arizona 85260
August 29, 2005

Way and Means Committee

H.R. 3385 comments from AZ 5th district

This letter is a request for support of H.R. 3385 which provides fair relief to taxpayers who have been caught in the unfair AMT ISO trap.

My story. I am a long time resident in Arizona's 5th district. I was a senior executive at FINOVA—a NYSE listed commercial finance company based in Scottsdale, Arizona. During FINOVA's heyday I made lots of money, gladly paid lots of taxes, and contributed to local charities. In fact, during my last six years with FINOVA I paid over \$2.1 million in Federal Taxes. In March 2001 FINOVA filed for Chapter 11 protection and my employment was simultaneously terminated. The value of FINOVA's stock plummeted with the bankruptcy filing. During the two year period before FINOVA's bankruptcy filing and for three months after my employment termination, I was prevented from selling my FINOVA stock under SEC insider trading rules. Consequently, I lost most of my net worth which was heavily concentrated in FINOVA stock, and lost my lucrative employment at the same time.

My history. During FINOVA's good times, I exercised Incentive Stock Options (ISO's), borrowed money to exercise the ISO's and pay Alternative Minimum Tax, I held the related stock since I was precluded from selling the stock under SEC insider rules, and finally sold 100% of the stock after my departure at a significant loss.

I followed the IRS rules for ISOs which effectively required me to prepay taxes in the form of AMT. The IRS rules were undoubtedly established with the belief that this "prepayment" was appropriate since the taxpayer would incur an eventual gain on the ISOs. A logical rule that put taxes into the Treasury coffers. But the critical problem is the very difficult process of recapturing this credit if the ISO gain never materializes. In my situation, the gain never occurred as I sold the stock at a loss. So, in summary I prepaid taxes for a gain that never occurred. And the only way to get those prepaid taxes back under current IRS rules is to make lots of money (more than \$500k per year)—and in my four years after leaving FINOVA my earnings have averaged under \$100,000 per year.

Fortunately H.R. 3385 has been introduced to right the inequity of the AMT ISO trap. H.R. 3385 does not try to fix all of the issues with AMT—it focuses solely on the ISO trap. When I try to be as unbiased as possible on this issue, I can still not justify the unfair nature of AMT credits related to ISO. The only argument I can muster against H.R. 3385, is that it reduces tax revenue in a time of budget deficits and record debt. But the continuation of an unfair tax because it is not comfortable to address the source of repayment is little comfort. Without this bill, I have no way in the foreseeable future to recoup \$135,000 in taxes I paid for a benefit I never captured.

Please support this bill.

Robert M. Korte

Statement of Kirk J Krauss, Los Gatos, California

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have submitted my testimony and shared my story at these following events:

6-15-2004, Hearing on Tax Simplification, Oversight sub-Committee
 9-23-2004, Hearing on Select Tax Issues, Select Revenue Measures sub-committee
 6-08-2005, Hearing on Tax Reform, Full Committee
 April/May 2005, Senate Finance Committee Chairman Grassley
 Spring/Summer 2005, President's Tax Reform Advisory Panel

I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385. My wife and I have paid an unfair tax. I am an individual engineer who took a job with a technology company in 1998. The company offered me incentive stock options. I exercised some of the options at a time when the stock's value had dramatically increased. Not being a well informed investor, I held the stock while its value dropped. I was finally forced to sell the stock when the company was acquired.

I have gained nothing on this stock, but the U.S. and CA government have taxed me approximately \$50000 because of the Alternative Minimum Tax. I've only received a fraction of the money back over the years since I paid that tax. This tax has decimated my savings, and that has caused me and my wife a lot of frustration. My wife, an immigrant from Russia, says that her previous government was worthy of such an unfair practice, and she has lost her faith in the fairness of the U.S. government. I think the government owes me interest for holding so much of my money for so long.

My coworkers sold their stock when they saw the value was dropping, but I believed the hype that the Internet boom would continue and that technology stock prices would remain strong. Why should the government punish me for my lack of stock market savvy? I respectfully and urgently request your support of H.R. 3385.

Milpitas, California 95035
November 29, 2005

This letter is in support of H.R. 3385. I like many other people associated with ReformAMT have been taxed on revenue that I will never see. I have a credit of approximately \$80,000. The money will be used for my son's college education if it is returned per H.R. 3385's intentions.

Regards,

Wayne Kuwada

Mountain View, California 94040
August 30, 2005

Dear Committee Members:

Thank you for the opportunity to voice my concerns regarding tax reform. I have previously submitted my testimony to the President's Tax Reform Panel earlier this year, and to various Ways and Means hearings on tax issues (June 2004, June 2005, and July 2005), regarding the "AMT/ISO problem" (alternative minimum tax treatment of incentive stock options). At this time, I would like to ask for your support of H.R. 3385, the AMT Credit Fairness Act, introduced by Rep. Sam Johnson.

Originally from Cincinnati, Ohio, I graduated in 1985 with a degree in engineering from Case Western Reserve University, and then began a career in Silicon Valley. I joined Netscape as an engineer in 1996. Five years later, I exercised incentive stock options and held the shares, due to my belief in the company, and paid AMT of over \$180,000, about twice my annual income, on "phantom gains." By 2004, I had sold off all of the stock, but my actual gains were far lower than the "phantom

gains" I had paid tax on. Now, I find that I have a six-figure AMT credit balance that is probably not recoverable in my lifetime. Needless to say, this is very disappointing. Whereas I fully accept responsibility for any gains or losses in the stock that I held, I am at a loss to understand why many years worth of my hard-earned savings must be permanently forfeited to pay an outrageously high tax involving "phantom gains."

H.R. 3385, while not providing a "quick fix," will accelerate the return of these tax overpayments by providing refunds in chunks over a period of years. This will help to ease the burden on people like myself, as well as other affected taxpayers who were unfortunate enough to have to sell their homes, declare bankruptcy, and face financial ruin, all because of a severe and unfair tax on "phantom gains." This is not about giving a tax break to the rich, it is a means to return overpayments of tax to ordinary working people who were taxed as if they had gotten rich from stock options, but in reality did not. Those of us who were affected by this need your help now, because we have no other recourse.

Therefore, I respectfully and urgently request your support of H.R. 3385. Thank you for your attention to this matter.

Hans Lachman

Ben Lomond, California 95005
August 30, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

This letter is to add testimony to those given by others who are suffering from the AMT issues on incentive stock options. In my case it is devastating and has taken all that I have saved to carry me through retirement and left me in a dire position.

I am a software engineer and have worked for wages all my life. I've been continuously employed since I was twelve years old. I'm from a large (5 boys and a girl) poor family. We lived on one income from my father as a technician. I worked my way through high school and College at various jobs to provide me with cloths and transportation and to help supplement the family income.

I have been fortunate enough to work at the state of the art in computer science while at the DOE where I implemented operating systems on supercomputers. My 22 years with DOE at various facilities exempted me from FICA and when I left DOE to work in aerospace, I was quite behind my peers in acquiring Social Security credits. While at various positions in Silicon Valley where I was again working at the state of the art in networking and computer security, there was no real retirement benefits. The work was all consuming and most enjoyable and the years seemed to fly by. When I reached fifty-five, I noticed that I should work carefully to amass a nest egg to carry me through my retirement years. The point was driven home when my grandmother could no longer take care of herself and had no support to help provide comfort until she died. I was her only support as the eldest child (my mother and father died at an early age). She had nothing but Social Security and that was just not sufficient to take care of her. While I had sufficient income to allow her the care she required, it made me aware of the state of risk that I was in. I had never given the fact that I may not be ABLE to work any significant thought and at the age of fifty-five, I did not have many years left to save for a time when I may have to stop working.

I took a position at Exodus Communications as an early employee for a reasonable, but not outstanding salary with stock options. It was explained that if I worked hard and the company prospered, my stock options would become valuable. I liked that idea; I have always been an over achiever. During my tenure at Exodus, I worked harder than I ever have in my life. I worked days at a time and traveled constantly. I have never worked under such stress in my life, but I build a security managed services business for Exodus that was their most profitable service. Eleven group members generated over \$15 million in annual revenue. We were the highest producers in the corporation and watched over a world wide network of security services for the Exodus clientele.

The five years at Exodus took a heavy toll on my and my family but we all supported each other and took pride in the fact that we were building a business that anyone could be proud of. We were counting heavily on the value of the stock options to provide us with the retirement income necessary. We built a retirement home in Colorado and purchased a nice home here in Santa Cruz County that we hoped would provide a little estate for our two children after we passed away.

That was not to be; shortly after the company went public, a new set of management was brought in as part of the process of becoming a large corporation. Ellen Hancock and her staff squandered all the value that all the hardworking staff had generated and drove the company into bankruptcy in a very short time. I was not sure what had happened, but as I learned about Enron, Worldcom, and other corporate criminals, it became obvious that I too was a victim of corporate greed. When it became obvious that all the stock options I had purchased had become worthless, I was most disappointed, but we still had our two houses, an IRA, some savings and I still had a good reputation as a leading software development manager. However, that was not to be. In August, after filing two extensions, my CPA and financial advisory informed me that I had a \$1.7 million dollar tax bill based on all that worthless Exodus stock. That's just not possible, I paid over a half million dollars in taxes the year before, how could I owe another 1.7 million based on worthless stock.

I can assure you that you have never experienced a shock like the one I got when the CPA informed me that I REALLY owed the State and Federal government all that money. Many times over what I had left from my time at Exodus or that I could make in my viable working years. Until that day, my biggest problem was with finding a new job to replace the income I had at Exodus. Now that I was 60 and the market was tight, no one wanted to hire me even though I'm still the best in the business.

So here I am at 61 still telling myself that just CAN'T happen to me. There must be some way this is incorrect. I've attempted to work out settlements with the IRS and FTB and they now have all the cash and retirement savings I have accumulated during my 50 years of employment and it appears they are about to take the rest of my possessions. I never thought I'd end up as one of those you see on a street corner with a cardboard sign, but I'm not far away from that today. I've been looking for work for nearly a year now and living on savings which have just been taking by the IRS. There are tax liens on both houses so I can't sell them to buy food and pay rent. There are zero balances in my bank accounts and all the monthly bills are coming due.

I feel really bad for my wife who depended on me to provide us with some sort of retirement. The frustrating thing is with this job market, I can't just say "Oh Well, I'll just work until I die." I can't even find a job with sufficient income to pay medical insurance or rent. I just don't know what I'm going to do. It's a mess.

Thanks for your attention. I do hope that some equitable changes can be made in the tax system before we lose our last remaining assets.

I respectfully and urgently request your support of H.R. 3385.

Very Sincerely,

Leroy Lacy and Janis K. Purl

Hutto, Texas 78634
August 31, 2005

Honorable Chairman William M. Thomas and House Ways and Means Committee
Dear Chairman Thomas and Committee Members:

Thank you for looking into what is an extremely egregious situation. The AMT as it affected us due to ISO stock options has forced us into bankruptcy, and due to the extremely large amount of tax it calculates, it may cause us to lose everything we own, including our house. At a minimum, it is forcing us into a Chapter 11, preventing us from a Chapter 13 or Chapter 7, which means our Bankruptcy costs are about \$15,000-\$16,000 instead of \$2000 to \$3000. Our effective tax rate was over 600% and if nothing is done, it will take us over 70 years to utilize our tax credits. This happened at a Bio-Tech company not a telecom company, so there are some of us in many facets of U.S. industry, not just one.

How is this fair or right? We went from thinking we were on our way to having a decent retirement after struggling for 20 years to living the last 5 years under the constant stress of what is going to happen to us and how are we going to survive. There hasn't been a single day that we haven't had some issue, be it physical, emotional, stress, or depression to deal with. So far we have been able to stay married and sane, but it has not been easy. Instead of helping our children and parents they are having to help us. Is this the American Dream? Since finding out about the AMT repercussions, almost everything we do has been based on how to deal with it. All we did was exercise my ISO options. How can we owe taxes on some-

thing that we never realized? How can the U.S. government and its tax code be responsible for making thousands of people paupers?

For those of us that are either on the brink of ruin or over the edge, it would be a big help to us to be able to resolve this equitably. It will not put things right for us because we still will not have any retirement or funds and will have to try to rebuild, but it will at least help us to get started. If we can either take the credits that are due to us more quickly so that we can recover the credits that are due to us or if we can treat the exercise and final sale/resolution of ISO options/stock as a single year occurrence, we can at least have a fair way of dealing with this issue.

We have been a middle-income family since we were married almost 25 years ago. We have worked for everything we acquired, and have not been extravagant spenders. In fact since our 2 children started their activities, Ballet and Dance, Ice Hockey and Figure Skating, most of our expendable income has gone for them. I worked at a company, Luminex Corp. that I helped to be successful enough to go public, and was offered ISO stock options as a reward for my efforts. Due to management changes I left the company in July of 2000, and had to exercise my options, but was not aware of the tax implications of the AMT. Everyone including our stockbroker told us to hold on to the stock to get long term gain tax gains as well as I thought the company had a future. What we didn't realize is that the IRS wanted us to pay the taxes on the gain (AMT) even though we did not sell the stock. This would be like paying taxes for the increase (Gain) in value of your land, even though you never sold it. All we have left is the house we have been living in for the last 12 years, as we no longer have any savings or retirement, and both of our vehicles are over 6 years old. Also, since I came from the technology sector, I was out of a job in my industry for over 2.5 years, and worked at whatever jobs I was able to find. I am now working in industry again, but this burden of the AMT is having very serious consequences that are not only affecting ourselves, but is also affecting our children. Instead of being able to pass along some of the fruits of our sacrifices and hard work, we are not able to help our children start their own lives, and in fact are concerned for ours in our later years as our children (17 and 22) are having to help us now.

We had to exercise my ISO options in August 2000. The IRS says that due to the AMT, we owed almost \$300,000 from that year even though we didn't sell them. Because of what happened with the stock value, if we could treat the exercise and the final result as a single transaction, or if we didn't have to consider the AMT, the amount would be more realistic and manageable. We currently are in bankruptcy and the IRS has put a lien on our house for over \$400,000, that if we come out of Bankruptcy (the trustee is trying to say there is no outstanding question about the validity of the AMT so is trying to get the case dismissed), they will seize it. We don't understand how we can owe taxes on something we never had. The judge just ruled that the IRS claims are such that we cannot file Chapter 13 but have to file 11, which increase our costs to recover from \$2000-3000 to \$15,000-\$16000. If we are already struggling to recover, how is adding \$13,000 on top of our debt helping?

Your consideration in this issue is greatly appreciated. Please help to make the AMT law apply as it was supposed to, not against normal middle-income citizens.
John Lapaglia

San Diego, California 92122
August 26, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have submitted testimony and shared my story to the President's Tax Reform Advisory Panel during the Spring of 2005.

I now wish to share this story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

In Year 2000 during my employment at a high technology company, I exercised unvested incentive stock options that were issued by my company with an exercise price that was significantly less than the fair market value on the date of exercise. I wasn't able to sell these in Year 2000 so I incurred a significant AMT preference item that resulted in my alternative minimum taxable income being much greater than my regular taxable income. As a result, I had to pay approximately \$34,000 in AMT to the federal government and approximately \$5000 in AMT to the state of California. These AMT values that I paid are over and above the regular tax amounts that I paid in Year 2000. The AMT tax itself that I paid was actually greater than the ordinary tax that I paid. I submitted an 83(b) election which effec-

tively recognizes the AMT income in the year that this election was submitted. In order to pay the tax, I sold all equity holdings that I possessed.

The payment of these taxes put me and my family in a very challenging financial situation. I refused to take on any credit card debt in order to maintain our standard of living so we cut our spending dramatically. In fact, I turned off the heat in our house during the winter in order to save a few hundred dollars a month although I did keep a space heater running in our new baby's bedroom during the night. We did not contribute to our IRA accounts in Year 2001 and I even cut back my bi-weekly 401K contribution rate to one percent of my salary from a contribution rate that would result in me contributing the maximum yearly amount.

The AMT that is paid becomes an AMT credit which can be claimed by an amount that equals the regular tax minus the alternative minimum tax. In Year 2004, I will be able to claim approximately \$1500 of this AMT credit. The yearly rate of reclamation of the AMT credit is generally low relative to the outstanding AMT credit for people in my situation. This AMT credit provides federal and state governments with an interest free loan that is paid for by the tax payer since the tax payer can't collect any interest on this money for himself. In fact, I understand that the tax payer actually loses this credit upon his death.

Understanding the AMT tax system took many hours of my time. The time was spent reading appropriate tax books, reviewing some message boards on appropriate web sites, and long discussions with my colleagues at work. The time required to understand this tax has a negative effect on productivity at my place of work. I can imagine that Joe taxpayer generally won't even be able to comprehend this tax even though he will be affected by it sooner or later.

I know well over twenty people who were adversely affected by staggering amounts of AMT. I know of one individual that needed to sell his house and move his family in order to pay the tax as he got laid off as well in Year 2001. Many of these individuals suffered psychologically as a result of the financial straits that they were subjected to as a result of the AMT. As a result, work productivity notably suffered as well.

I would like to add that many of my colleagues at work were adversely affected by exercising non-qualified stock options where the exercise price was much less than the fair market value on the date of exercise. The tax that is based on the difference between these two values becomes due on the date of exercise. It counts as regular tax and not alternative minimum tax. Unfortunately, my colleagues were not able to sell immediately since the shares weren't vested. The underlying stock price had already fallen dramatically enough when the exercised shares could be sold. The result is the tax paid in Year 2000 is much greater than the amount for which the shares could be sold. Reclamation of this loss will take decades for most of these individuals as only \$3000 of the amount could be reclaimed annually. This regular tax coupled with their AMT burden has adverse financial consequences for my colleagues to this very day.

Some Recommendations for Tax Reform:

1. Elimination of the alternative minimum tax and payment of all outstanding AMT credit to individuals that are due this credit.
2. The loss of the billions of dollars from AMT payments by individuals needs to be obtained from other sources. This may be achieved by the following methods:
 - a. Changing the marginal tax rates to their prior values at minimum
 - b. Establish a federal consumption tax. In order to mitigate the regressive effects of this tax on low income families, provide additional income tax relief to people in this group.
 - c. SIMPLIFY! The simplest solution is almost always the best solution and the correct solution. Any lack of coverage by a simplified tax code will be more than made up by the billions of dollars that will be saved by administering a complex tax code, the decrease in worker productivity that occurs when individuals spend many days trying to figure out the best tax strategy, the corresponding loss of tax revenue as companies earn less when the employees are less productive, and anecdotally, the hundreds of millions of dollars that are unnecessarily paid to tax preparers that are required to prepare complex tax returns.

I respectfully and urgently request your support of H.R. 3385.

Gerald Marx

Boca Raton, Florida 33432
August 30, 2005

Honorable Chairman William M. Thomas
 House Ways and Means Committee
 Select Revenue Measures

Dear Chairman Thomas and Committee Members from the Florida 22nd Congressional District:

I was an employee of Qtera, in South Florida, of one of the many acquisitions of Nortel Networks during the telecommunications boon of 1998 to 2000. I received incentive stock options and subsequently have paid to the U.S. Treasury department, Alternative Minimum Tax, in excess of \$230,000.00.

I was hired as the 17th employee in 1998, three years after completing a Bachelors degree in Mechanical Engineering. Working for Qtera, in Boca Raton, FL, was a fantastic experience. The team that was assembled was of the highest quality and some of the most motivated individuals I have ever worked with. Our devotion, hard work and technical expertise made us an acquisition target of both Cisco Systems and Nortel Networks in late 1999, Nortel Networks ultimately acquired us; seventy employees had achieved the impossible. Instantly, all our Qtera ISO's were converted to Nortel Networks ISO's at approximately \$60 per share. Our success received a wealth of media coverage, from the Wall Street Journal to NPR.

Soon after the media broke the news of our success, the stockbrokers and investment bankers began courting our employees. As employees with much work ahead of us, we had little time or energy to learn about the Alternative Minimum Tax code. Some of the investment firms provided seminars on the Alternative Minimum Tax code but usually were left with more questions than answers. AMT soon became the number one discussion topic, on the surface, we found ourselves quite versed in the subject, yet few of us really understood the dirty details.

My plan was to exercise and hold the shares as Congress had intended then after holding the stock for a year, sell enough shares to pay AMT and invest the rest. The first sign of trouble was the gradual decline in Lucent's stock price during 2000. We continued working incredible hours to meet our company milestones during our one-year transitional period.

By the middle of 2000 many employees had stockbrokers managing their investments. Not only brokers, but accountants, estate planners and life insurance brokers, everyone was after our potential wealth. I retained a local accounting firm to manage my tax liability and a nationwide brokerage house to manage my account. The accountants were confident they were experienced with Alternative Minimum Tax. Their experience turned out to be limited, but since they had fifteen of my coworkers on a yearly \$4,000 retainer, they had no problem getting their hands dirty with the tax code. I reasoned that the Alternative Minimum Tax code was so complicated that I should have professional support, no matter the cost.

April 15th 2001. The year had gone so quickly and I exercised options twice during the previous year resulting in an Alternative Minimum tax on "Paper Gains" of \$195,000.00. It was strongly suggested, by my investment broker, use margin to pay the tax bill. The margin loan sounded like a reasonable idea, the investment firm provided a low interest loan without liquidating the account, as long as the account value is not less than the loan. Little did I know the bottom was about to drop out.

I began to diversify my account, but the majority was still in Nortel stock. Meanwhile, while no one was watching, Nortel Stock fell below \$20 per share. The Nortel management was positive on the company's growth and their overall market position, the low price was a just small correction in the overall market. (We now know these earnings were inflated)

By summer of 2001, the margin debt was nerve-racking and I was forced to sell Nortel shares and diversify as the share price continued to slide. I began to exercise and sell just to raise cash for the 2001 Alternative Minimum Tax. Nothing could stop the hemorrhaging stock price or margin calls. The tax models the accountant had prepared last year were useless. My only concern was having enough cash to pay the AMT and pay off the margin debt. By the end of 2001, we got word that Nortel would soon be downsizing their operations in Florida. Nortel Networks needed to reach the "break even point" and the cutbacks began. By the third quarter of 2001, the share price was under \$10 and Nortel was laying off two thirds of their worldwide workforce.

April 15th 2002. I had paid estimated tax throughout the year, in hopes of making the April payment manageable and avoiding penalty fees. Each of those quarterly tax payments went on the margin loan. By April 2002, I reached my personal debt limit and liquidated my account to pay off my debt and pay the AMT. The 2001 tax

bill was only \$37,000.00, a few thousand less than my yearly salary! I ended my contract with my accountant, sold 90% of my investment account, and prepared myself for the possibility that I too would soon lose my job. My fears were realized and by the second quarter of 2002, I was unemployed.

I learned many valuable lessons through this experience and I am fortunate that I am not financially ruined like so many of my former colleagues. Many will have their wages garnished, or have filed for personal bankruptcy, some were fortunate enough to negotiate settlements with the IRS. The Alternative Minimum Tax code was implemented to prevent wealthiest 2% of Americans from using special tax benefits to pay little or no tax. For various reasons the Alternative Minimum Tax has reached many hardworking, middle class Americans in South Florida 22nd Congressional District, some who don't have very high incomes or special tax benefits. I hope those in the United States Congress have the compassion and foresight to realize the growing negative effect of the Alternative Minimum Tax and bring change to the outdated tax code.

Timothy Masters

Austin, Texas 78736
August 31, 2005

Honorable Chairman William M. Thomas and House Ways and Means Committee
Washington, DC

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have previously submitted 6/05 to the Ways & Means Tax Reform Hearing.

I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

Our three children, and I, along with my wife Julie have been seriously impacted by the Alternative Minimum Tax (AMT) that I had to pay due to the exercise of stock options. The AMT laws pertaining to Incentive Stock Options are unfair and I would venture, unconstitutional. I appreciate the time you and the Committee are taking to review this matter, and would ask that you consider changing this seriously flawed and unjust law of the tax code. I also ask that you consider doing what's right for those already impacted, a large majority of which, was caused by the "perfect storm" when the market went south in 2000.

I, personally, consider myself one of the lucky ones. . . . I have the possibility of actually recovering the AMT amount paid in over my lifetime, if everything works out, and even though it's having a direct impact now on our lives, it could have been worse. Thank God I only exercised 346 of the 512 stock options I was originally going to! Even with this stated, I am personally writing for those who have had their lives turned upside down. It's devastating to hear some of these stories! Single mothers who are janitors owing hundreds of thousands of dollars . . . just because they listened to their tax accountants, the IRS and a poorly written policy, called AMT. This belittles the \$35-\$40,000 (52.55% affective rate) difference the AMT law made on my tax bill (\$29,355 in actual taxes owned + the amount I would have got back, had it not been for the AMT "law").

My story starts back in the middle of 1996. I had a prior job with a retirement benefit that I received. As I was struggling to make ends meet while supporting my wife (who's presently disabled) and three children (two of which were from my wife's prior marriage, and at that point, had received NO child support. I loved my family then, and do to this day, so it was just one of life's struggles we have to deal with), we had to roll over the retirement account to a standard IRA. Around 1999, I found out about the ROTH IRA, and as things were looking better with my job and our finances, it sounded like a good item to move towards looking into our future. We realized it would be a struggle to pay the taxes on it, but were going to deal with that hardship to invest in our future retirement. So in early 2000, things were looking like we could finally pull off coming up with the taxes at the end of that year, so we converted the IRA to a ROTH IRA. In Feb. 2000, when our companies stock was doing well, I contacted some tax accountants and made several calls to the IRS regarding exercising my stock options utilizing the 83-b, so I could lock in the tax benefits. Things were really looking up and we were highly encouraged to invest in our company by management, and so I did. All my calls to the IRS didn't really amount to much as hardly anybody knew about the Form 83-b, but the basic information they kept telling me is that it's a huge tax benefit. I'd only have to pay long term capital gains tax on the options exercised, as long as they weren't sold for a year (even the options which hadn't vested yet, and wouldn't until even the latter part of 2001). As the markets kept dipping and our stock starting taking a dive (much later than most in that year), and I started hearing more mentioned about

the AMT tax, I started looking into the AMT implications. I had at least 20 conversations with the IRS themselves, along with consulting with two different tax accountants. NONE of them really knew of this area of the tax code, and ALL called it a **“very gray area”**. Many times, the IRS would have to escalate up the ladder to a more knowledgeable expert in that area. I NEVER did get any real information from ANY of them other than **“it’s a gray area”**. If the IRS couldn’t tell me about the ISO-AMT laws, who could???

At the beginning of 2001 I continued to keep placing calls to the IRS to find out exactly how my options will be taxed and what or how AMT would apply. I finally got a copy of some tax software after I couldn’t get answers to my questions from either the IRS or the tax advisors I was working with. Well, I couldn’t believe my eyes when I plug my numbers in. I then made many more calls to the IRS. Finally AFTER the 2000 tax year was completed, some of these “gray areas” start turning into answers. They went something like “oh, I just had to look into a few of these last week and the IRS has started publishing more/better information on these ‘gray areas’”. To my amazement, now that the tax year is over, the IRS had finally got specific, but by now, it was too late for me to do anything. It was a blow that I couldn’t ever have expected, nor believed that there was any constitutional way that I could be liable for this kind of tax. **It meant that we were to pay tax on money we would NEVER receive. It meant that for a \$2 stock option, I was going to have to pay almost \$24/share in taxes . . . yet the value of the stock was only a small fraction of that. EVEN THOUGH I COULD SELL THE STOCK FOR A PROFIT OVER THE \$2 GRANT PRICE, I STILL HAD TO PAY TAXES IN AN AMOUNT THAT MEANT I LOST MONEY. How can you pay taxes on stock that you NEVER saw a gain from???**

Now, comes the real shocker . . . so this is a pre-paid tax . . . I’ll just be able to get the tax money back I paid when I file my 2001 taxes, and pay off the money I owed the IRS . . . NO SUCH LUCK! This law is written to where the only way you could do that is OWE a huge amount of AMT tax again the next year. I will probably NEVER owe AMT tax again (so I thought) in my life . . . now that I’m reading more about it, I find even that may not be true.

So, here I am, I bought exercised the stock, NEVER sold it and now I have this HUGE debt, with an effective tax rate of 52.55% (it’s realistically higher, as I didn’t get back the \$\$ I should have), and am expected to live on that. My disabled wife needed a different used car as hers was becoming undependable with over 130,000 miles on it, I couldn’t afford that, I couldn’t afford anything I worked for. The IRS kept charging me penalties and interest on my AMT bill, and so I finally had to go into serious debt by borrowing money off of my credit cards to pay off the IRS to get them off of my back.

Now, I went from thinking I could actually do something nice for my family and take our first real vacation, to being horrifically in debt! Something’s wrong here . . . I’d previously in my life worked two jobs for almost two years (putting in 70–100 hrs a week), to get myself where I didn’t have to worry about serious debt (mostly due to a robbery), and now because I worked hard and my company attempted to reward me, I’m in the worse shape of my life! I didn’t try to get out of the taxes I truly owed . . . never have, never will. But, why isn’t our government treating me the same exact way? George Washington would be turning in his grave if he knew about this. **Hard work in this country is supposed to be rewarded, not a punishment. I worked hard for everything I have, never getting any handouts, nor expecting them. I just want my country to treat me fairly in the same manner, as it should treat ALL in this country that way.** Please correct this injustice . . . if not for me, but for ALL citizens, especially those such as the hard working single moms who have been blindsided so hard by a lack of information and poor tax laws and interpretations of them. Please repeal AMT retroactively, and replace it with something that is TRULY FAIR.

I was about to stop there, but wanted to add one more piece I think you should know about . . . this isn’t just about money here . . . this law is putting a serious strain on people’s health too. I try to avoid thinking about AMT as much as I can . . . It gets me literally sick every time I think of it. This was hard once again to write to try to have some action taken on this subject. I knew what would probably happen . . . but I had to write anyway. **I’ve NEVER felt so strongly about a law so much in my life . . . don’t get me wrong, I have strong moral values, and feel there are many which could be improved upon, but this law, I feel, is just plain robbery.**

I respectfully and urgently request your support of H.R. 3385.

Steven D. May

Fallbrook, California 92028
August 17, 2005

Honorable Chairman Camp and Ranking Member McNulty
House Ways and Means Committee

Dear Chairman and Members:

I respectfully and urgently request your support of H.R. 3385 as my wife and I are among other Americans who have been hugely impacted by the Alternative Minimum Tax (AMT) and its treatment of Incentive Stock Options (ISOs).

In 1998, I joined a Silicon Valley software startup. Within 18 months, I exercised incentive stock options and we were instantly "millionaires" on paper. Unfortunately, our stock value plummeted in 2001 with the rest of the NASDAQ. As a result of the AMT, however, we were still liable for nearly \$300,000 in federal income taxes and approximately \$75,000 in state taxes based on the value of the stock at exercise. Given the dramatic fall in the value of the stock, we were unable to pay the liability in full.

Over the next 3½ years, we tried to reach a reasonable compromise with the IRS on the remaining balance, but our offer in compromise (OIC) with the IRS was rejected, as was our appeal of the rejection. Most recently, at great family hardship, we did a cash-out refinance of our home and liquidated all of our remaining assets to come up with \$262,000 (which included \$187,000 in federal tax and \$75,000 in penalties and interest) to pay the balance of our year 2000 taxes.

My wife and I are now starting over financially due to the AMT. I am 47 years old and the first of my two teenage children will enter college next year, which my wife and I are committed to fund. Given that the AMT has depleted all savings, investments, 401ks, college funds, etc, we plan to cash flow our children's education over the next 7 years and then at age 54, we will begin to re-save for retirement.

Please help us, and quickly. We are hopeful that our Leadership will recognize that the AMT and its impact on families like ours is unfair and distorted. We are also hopeful that new legislation, specifically ***H.R. 3385; AMT Credit Fairness Act***, will soon provide relief for families in our situation. **The ability to apply our AMT credits against normal income and tax events would allow us to regain some of our financial security.**

James Steven Mazingo

Statement of Military Officers Association of America, Alexandria, Virginia

The Military Officers Association of America (MOAA) is pleased to submit this Statement for the Record in support of H.R. 994 and S. 484, as introduced by Rep. Tom Davis and Sen. John Warner. MOAA is grateful to the Subcommittee Chairman, Ranking Member and Members of the House Subcommittee on Select Revenue Measures for holding this important hearing.

MOAA does not receive any grants or contracts from the federal government.

H.R. 994 and S. 484 would allow federal civilian retirees, and active duty and retired military members, to pay for health insurance premiums on a pre-tax basis.

In the case of military members, enrollment fees for TRICARE Prime and the TRICARE Retiree Dental Plan (TRDP) paid by military retirees and TRICARE Dental Program (TDP) fees paid by active duty military members would be treated in the same way as pretax options available to private sector workers. For military members, premiums for government-sponsored programs would be deducted by the government from the member's gross pay or retired pay. These enrollment fees/premiums would not be reported as taxable income.

TRICARE Standard supplemental premiums paid by active and retired servicemembers would be treated differently, since these are not government-sponsored programs. Beneficiaries would be allowed to deduct these premiums on their federal income tax forms. The deduction would be allowable whether or not the taxpayer itemized his/her deductions.

To meet their health care requirements, many uniformed services beneficiaries currently pay premiums for a variety of health insurance, such as TRICARE supplements, the active duty dental plan or TRICARE Retiree Dental Plan (TRDP), long-term care insurance, or TRICARE Prime enrollment fees. For most beneficiaries, these premiums and enrollment fees are not tax-deductible because their health care expenses do not exceed 7.5 % of their adjusted gross taxable income.

This creates a significant inequity with private sector and some federal government workers, many of whom already enjoy tax exemptions for health and dental premiums through employer-sponsored health benefits plans. A precedent for this benefit was set for other Federal employees by a 2000 Presidential directive allowing currently serving federal civilian employees to pay premiums for their Federal Employees Health Benefits Program (FEHBP) coverage with pre-tax dollars.

Some members of Congress have expressed concern that the proposed pre-tax treatment of health care premiums would only be extended to federal and military retirees—and not other retirees. MOAA believes that the federal government should set the standard as a model employer in this regard. Providing this benefit to military and federal retirees is a reasonable step in recognition of their career service to their country, which may ultimately lead to providing this benefit to all retirees to encourage enrollment in available health care plans and discourage the alarming national trend in which more and more retirees are dropping health coverage due to rising costs.

MOAA strongly supports all provisions of this proposed legislation. Both bills enjoy wide bipartisan support, with two-thirds of the House and over half of the Senate having signed on as cosponsors. MOAA hopes that the Subcommittee will aggressively seek support from the full Ways and Means Committee to pass this legislation and ensure military and federal beneficiaries this fair and reasonable tax treatment.

MOAA strongly urges the Subcommittee to endorse authorizing uniformed services beneficiaries eligibility for pre-tax payment of TRICARE Prime enrollment fees, TRICARE dental coverage and TRICARE supplements.

Catonsville, Maryland 21228
August 26, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty,

We have submitted our testimony and shared our story at these following events:

6-15-2004, Hearing on Tax Simplification, Oversight sub-Committee
9-23-2004, Hearing on Select Tax Issues, Select Revenue Measures sub-Committee
6-08-2005, Hearing on Tax Reform, Full Committee
April/May 2005, Senate Finance Committee Chairman Grassley
Spring/Summer 2005, President's Tax Reform Advisory Panel

We now wish to share our story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

My name is Rita Miller and I am writing on behalf of myself and my husband, Arthur, regarding a huge tax debt that we incurred on phantom gains that were created by the application of the Alternative Minimum Tax. We submitted our testimony previously, but we are respectfully requesting your support of H.R. 3385.

In November 1997, I took a job in Linthicum, MD as an Administrative Assistant for a start-up Internet security company, VeriSign, Inc., whose headquarters is in Mt. View, CA. We incurred a huge tax debt starting in the year 1999 by exercising Incentive Stock Options (ISOs) I received while working for VeriSign, Inc. We held some of the stock. We didn't realize ANY profit from the exercised, unsold stock. We just took the stock from VeriSign and put it into our newly created stock brokerage account.

We have always been in the lower portion of the middle class income bracket. We never owned even one share of stock before. We thought the stock market was for the rich and famous. For that matter we never really ever had a savings account. We raised three sons while just making ends met. But now it had looked as though the all-American dream might be coming true for us. We now had a vehicle to change our financial position and the ability to really be able to save for retirement. I am 56 years old and my husband is 58.

We read everything we could about stocks and taxes and everything pointed to exercising and holding the stock for long term capital gains. We enlisted the help of a reputable financial advisor. The advice from the financial advisor was to exercise and hold the stock so as not to incur the higher short-term capital gains rate. And we did—we held the stock. But unbeknownst to everyone, if you exercise and hold onto stock for the long term and carry it over a tax year, a tax called AMT (alternative minimum tax) can apply, and it did.

We were taxed on the value of the stock on that particular day we exercised them. On some of those days the stock traded as high as \$220. We were taxed as if we

sold the stock that day and made a profit. We didn't sell the stock at \$220. We didn't receive, as it would appear, the huge profit on those shares of stock, but we were being taxed as if we did. Taxed on "phantom income." As if we had the monetary gains sitting in a bank account somewhere. That was not the case.

All other assets, like real estate and stock purchased on the open market, are taxed based on the value at the time of the sale, when you actually receive a profit, not at the time of the purchase. Why aren't we just taxed when, and if, we sell the stock? That then would be a *legitimate profit made and a legitimate tax due*.

Our total federal taxes due from the years 1999 through 2002 was \$448,873. We managed to pay \$314,784 by selling whatever shares of stock we had. During the year 2000 when the stock market started to plummet, so did the value of our stock. When we sold the stock the prices ranged from \$34 to as low as \$9. Keep in mind that the original amount of \$448,873 was the tax due based on the stock trading at an average \$220 per share. As you can see I didn't sell it for \$220 but I'm being taxed as if I did.

This is not even to mention the amount that we owed to the state. We negotiated with the IRS and went on a payment plan to pay the remaining \$134,089, likewise with the State. We never missed a payment until both my husband and I lost our jobs with in a few months of each other in the year 2002. I was unemployed for over a year, my husband is still unemployed.

We requested an OIC and the IRS rejected it—stating that we had a house, a car and some retirement money and if we sold the house, the car and turned in the retirement, we could pay the "phantom taxes" we owed. We came to realize that after filing subsequent years taxes, the IRS now "owes" us \$124,297 in credits for actual overpayment of taxes. We immediately filed another OIC. We offered \$8,002 along with the credit of \$124,297 that the IRS admits was an overpayment of taxes bringing our tax debt to a "paid-in-full" status. Can you imagine our disbelief when we received the notice that the IRS is rejecting this offer too? The IRS wants us to pay them first, then they want to give us back the \$124,297 of "overpayment" by allowing us to recover a small portion, approximately \$3,000, of the credit per year! My husband and I will have to reach the age of 99 and 97 respectively to recover the entire amount of the overpayment.

A travesty just occurred in our lives that added additional hardship. My husband, who has been unemployed since August 2002 and has spent more than a year of processing for employment with the Department of Defense was just notified that the DoD is withdrawing his offer of employment due to the outstanding IRS debt. They said that the tax issue brought into question his credibility—but we only owe this tax because we were honest enough to report our exercise of the stock options in the first place. At almost 60 years old where is he going to find another opportunity like the one with the DoD? We are hardworking, trustworthy and honest people. We have never avoided paying taxes and have always engaged in honest financial practices. We understand the AMT was put into place to make sure that the very wealthy people paid their fair share of taxes, but it's not working the way it was intended. There has to be some consideration for people like us, those of us that were caught in the AMT trap.

Whenever you tell anyone the details of our situation they are appalled. They say that's impossible. It just couldn't be. Well it did and we have been living a nightmare for over 3 years with daily fear that one day when we open our mailbox there's going to be a letter there from the IRS stating that they are taking our home, the one that we worked all our life for.

We respectfully and urgently seek your support of H.R. 3385.

Rita & Arthur Miller

Las Vegas, Nevada 89149
August 26, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have submitted my testimony and shared my story on a number of occasions in the hope something can be done to fix a travesty in the tax code. I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

My name is Nield Montgomery. I very much appreciate the opportunity to tell my story of suffering and hardship brought on by the application of the out of date and destructive rules for the treatment of Incentive Stock Options under the Alternative Minimum Tax (AMT) code.

My difficulties and those of thousands of others were brought about by events never contemplated when the AMT was devised, i.e., the significant negative tax impact that happens with stock options when a company's stock price experiences a dramatic decline. At the risk of being too basic, please allow me a brief explanation of stock options. A stock option is the right to buy a share of stock at its current price (the strike price) at some time in the future. Non-Qualified Options (NQOs) and Incentive Stock Options (ISOs) differ in their tax treatment. I'll talk first to ISOs. When the option holder exercises the right to buy (obviously the current market price exceeds the strike price), they create an Alternative Minimum Tax (AMT) taxable event. The AMT treats the spread between the option strike price and the stock price when the option is exercised as income (otherwise called "phantom" income). That is, even though there's no tangible income, a tax consequence occurs non-the-less. Now to be fair, when the AMT exceeds the regular tax owed calculation, the taxpayer gets a credit against taxes in future years (the credit's application is complex and can take years if ever to recover). A subsequent sharp decline in stock price does not alter the tax owed even if the stock price goes to zero.

When the tech bubble burst, huge numbers of share owners were left with tax bills resulting from the AMT treatment of ISOs while their shares had become nearly or even totally worthless. Remember, the real value of the stock has nothing to do with taxes owed. What was supposed to be an "incentive" and accepted in lieu of cash compensation turned into a tax nightmare (an obligation to pay taxes where no income/gain was realized). People were forced to mortgage/sell their homes, take out loans, or sell what ever they could to pay these absurd tax bills. It seems *incomprehensible the IRS would enforce such harsh collection measures for tax dollars that become a credit in the taxpayers account*. This AMT tax treatment is complex and unfair and has caused untold financial hardship, ruin, and heartbreak. Side note: how does the government account for these prepaid taxes?

The tax treatment for NQOs is even worse. Tax law requires the treatment of the NQO as an income event at the time of grant. The income results from the difference between the strike price of the option and the stock price on the grant date. This is without regard as to whether the NQOs are even exercised and, if they were, whether or not the shares were sold. Again, in a market such as we've experienced, a decline in the price of the stock is just a personal misfortune. The tax is owed even if the stock price goes to zero.

Looking at the larger picture, I'm not sure anyone can assess the positive impact the awarding of stock options has had on our economy. I know their use has been wide spread and it's my opinion they've been a significant factor in holding down wages and inflation. Thousands of employees had been willing to accept below market wages in exchange for options. The belief was that by working hard and making their company a success, they'd have a share of that success. Unfortunately, for many, it didn't work out that way. If the negative tax treatment of stock options isn't fixed, their use as an incentive and benefit on holding down wages will be lost.

Now for my story. By way of background, I worked 31 years in the telephone industry starting at the lowest entry level job and working my way to General Manager. In 1993, I left a good paying job to become an "entrepreneur". Two years later, I founded MGC Communications. Having worked my entire career in large impersonal corporations, I thought it was important that our employees be owners as well. We accomplished that goal by granting stock options to everyone who joined the Company. At the most senior level, we were able to hire very qualified people at compensation levels below market rates by sweetening employment packages with stock options. As a young Company, it was essential we conserve our cash. Since salaries and bonuses represented such a significant portion of on-going cost, the use of ISOs was an effective way to do that. ISOs also incented our employees, as owners of the Company, to really apply their talents to building the business.

As the most senior officer/leader of the Company, I was committed to and embodied these goals. In lieu of a salary more typical of my position (my successor's annual salary was \$500,000), mine was \$150,000 with ISOs as additional compensation. In lieu of cash bonuses (my successor's annual bonus was \$500,000), I took ISOs. Little did I know of the tax nightmare lying ahead.

Unlike many victims of this cruel conspiracy of events, I had access to good tax planning help. My personal banker was with one of the largest public stock firms in New York. When he didn't have answers, he had the best talent available to him in the corporate offices. My accounting firm was one of the big five national firms. Like my banker, when they needed help, they turned to specific experts on their corporate staff. Yet with all this knowledge and talent, none of them really understood the complex treatment of options within the AMT.

Here's what happened in my case. When I exercised my options in early 2000, the stock priced was \$66 per share. Since the options had been granted in the early

days of the business, the strike price for the options was very low. When the spread was calculated and the AMT rules were applied, I owed an additional tax of \$4,400,000. Within six months of exercising my options, the stock had lost 90% of its value (the Company eventually declared bankruptcy). While the intended holding period for ISOs is one year, I was forced to sell shares sooner to raise the money to pay the taxes. To further compound the situation, I owed taxes on the shares being sold. In the end, I sold all the shares acquired thru options to pay the AMT and still ended up \$200,000 short. I have said many times jokingly, if the IRS would have accepted everything I owned in the Company in exchange for the AMT owed, I would have been money ahead.

All I have to show for founding the Company, creating thousands of jobs and building a good business is a substantial tax bill; a tax bill that resulted from a purchase event. I understand and accept the tax consequences when there's a purchase and sale which results in a net gain. What I reel at is the application of a 28 percent tax on the purchase of stock as though some form of gain had been realized. This is a virtual sales tax! And, as noted earlier, the tax code is so complex it was/is impossible to find anyone sufficiently knowledgeable to provide accurate tax planning.

As I've talk to other people similarly situated, I've realized how pervasive this problem is. I also discovered there are three ways in which taxpayers deal with this issue. The first group, like me, reported the exercise event and faced the tax consequences. The second group knew they should report but chose not to. Since there's no reporting/tracking mechanism, the IRS doesn't know there's been a taxable event. The third group just didn't realize they had to report. Of the three groups, I believe those who reported were in the minority. One of the fundamentals of our tax code is the fair and uniform application of the law. Clearly that did not happen here.

As for reform, here are some ideas. Change the AMT formulas so this kind of injustice doesn't happen in the future. Those of us who have credits, at a minimum, make the credit directly applicable to all future taxes owed and not just a factor in the AMT calculation as it is now. At the extreme, send us a check equal to the credit (that would be a real "rebate"; these are real dollars we've paid in excess of what we would have otherwise owed). And if you must hold our money, at least pay us interest at the rate the IRS charges us for late payments. It is absolutely absurd that our prepayment of taxes is a free loan to the government. Finally, if the AMT must continue, please insure it is indexed down proportionate to the regular tax rate schedule.

As for the tax treatment of NQOs, stop treating the event as income at the time of grant. Taxes should be owed when income/gain is realized. That means determining taxes owed when the stock is sold. I would agree a portion could be treated as income and the change in subsequent stock price as a long/short term gain/loss.

If I sound like a tax professional, I'm not. I'm one of the thousands of people granted options only to have this tax nightmare. I've become knowledgeable by default! I just couldn't believe I'd owe taxes for options granted when I hadn't received income or realized a gain. In hindsight, I would have been so much better off to have taken the pay instead of the options. I know thousands of others feel the same way (not a scenario that bodes well for business and our economy). At least I'd have the income to pay the related taxes. We need your help; fix this grave injustice!

I respectfully and urgently request your support of H.R. 3385.

Nield J. Montgomery

Statement of Bob Moore, Lawton, Oklahoma

Would you run a tax projection on the following?

I know we can totally eliminate Federal Personal Income Tax. Change how we collect taxes on bank interest and stock dividends by having the banks / corporations pays 10% tax like a sales tax. Payroll deduction is the most efficient way to collect taxes. Change FICA tax to the Federal Tax Payroll Program will be the only federal tax that wage-earning Americans will pay.

The Federal Tax Payroll Program shall be 20% "Maximum" of which Ten (10%) Percent to be withheld from the wage-earners' pay to be matched by Ten (10%) Percent from the Employer. Rate shall not be raised *ever*.

Earmark how the money shall be allocated, such as:

1% to DOD for National Defense;

4% to Citizens Retirement Fund, a 401K type program—private social security fund for each person;
 15% to Social Security and other spending programs.
 A total of 20% of the wage-earners' salary to go to the Federal government
 Never a personal income tax form to file with the IRS.

Statement of National Association of Real Estate Investment Trusts

The National Association of Real Estate Investment Trusts® (NAREIT) respectfully submits these comments in connection with the hearing of the Subcommittee on Select Revenue Measures of the Committee on Ways and Means to be held on November 16, 2005, regarding individual tax proposals introduced in the 109th Congress. NAREIT thanks the Chairman and the Subcommittee for the opportunity to provide these comments.

NAREIT is the representative voice for United States real estate investment trusts (REITs) and publicly traded real estate companies worldwide. Members are REITs and other businesses that own, operate and finance income-producing real estate, as well as those firms and individuals who advise, study and service these businesses.

EXECUTIVE SUMMARY

By way of background, the American Jobs Creation Act of 2004 (Jobs Act) shortens the depreciation recovery period with respect to qualified leasehold improvements placed in service before January 1, 2006 from 39 years to 15 years. NAREIT appreciates Congress' leadership in enacting this important legislation, and NAREIT supports a permanent extension of this 15-year recovery period.

On April 14, 2005, Rep. Clay Shaw (R-FL) introduced H.R. 1663, which would enact a permanent extension of the 15-year recovery period for second-generation leasehold improvements. This bill now has a total of 27 co-sponsors. However, because of certain tax rules applicable to REITs, particularly concerning the calculation of "earnings and profits" (E&P), the intended benefits associated with the shortened recovery period will not be passed on to REIT shareholders. Additionally, REITs may face the possibility of failing to meet the distribution requirement to maintain their REIT status.

Accordingly and as further described below, in the event that the 15-year life of tenant improvements is extended another year or if the H.R. 1663 legislation becomes law (or there are other changes to the calculation of depreciation generally), NAREIT respectfully requests that Congress consider a conforming modification to the calculation of E&P to allow 15-year leasehold depreciation treatment to flow through to REIT shareholders (or similar conforming modifications to the calculation of a REIT's E&P in order that the calculation of taxable income conform to the calculation of E&P) and to avoid the risk of REITs' failing to meet the distribution requirement.

DISCUSSION

Background

In general, depreciation is determined under the modified accelerated cost recovery system (MACRS) as provided under § 168 of the Internal Revenue Code of 1986, as amended (the Code). Prior to the Jobs Act, § 168 provided that leasehold improvements were depreciated over 39 years for tax purposes, regardless of whether the improvements were made by the lessor or the lessee or whether the recovery period for the improvement was longer than the term of the lease.

A 39-year recovery period for leasehold improvements extends well beyond the useful life of the investments, and leases of commercial real estate typically are shorter than the 39-year recovery period. Therefore, the Jobs Act shortens the recovery period for qualified leasehold improvement property that is placed in service before January 1, 2006 to a more realistic period of 15 years because Congress believed that taxpayers should not be required to recover the costs of certain leasehold improvements beyond the useful life of the investment. Although lease terms differ, a uniform period of 15 years for recovery of qualified leasehold improvements was chosen in the interests of simplicity and ease of administration. *See* H.R. Rep. No. 548, 108th Cong., 2d Sess. 122 (2004). NAREIT strongly supported this provision and believes it should be made permanent.

Issue

A REIT is a corporation or business trust combining the capital of many investors to own, operate or finance income-producing real estate, such as apartments, shopping centers, offices and warehouses. Congress created the REIT structure in 1960 to make investments in large-scale, significant income-producing real estate accessible to investors from all walks of life. The shareholders of REITs unite their capital into a single economic pursuit geared to the production of income through commercial real estate ownership. REITs offer distinct advantages for smaller investors: greater diversification through investing in a portfolio of properties rather than a single building and expert management by experienced real estate professionals.

REIT shareholders may receive income from investments in real property without the income being subject to taxation at the entity level. However, REITs are required to comply with several investment and operational requirements in order to maintain REIT status. For example, REITs are required to distribute at least 90% of their taxable income to their shareholders pursuant to § 857 of the Code and must pay tax on any taxable income that they do not distribute. Specifically, the REIT's deduction for dividends paid must equal or exceed 90% of its taxable income, after certain adjustments not relevant here. C corporations have no such distribution requirement. REIT shareholders are particularly conscious of the REIT distribution requirement and the benefit of REIT dividends. In fact, over the last 20 years, dividends have represented approximately $\frac{2}{3}$ of the REIT industry's annual compound total return, as measured by the NAREIT Equity REIT Index.

Because a REIT is not itself a pass-through entity (*e.g.*, REIT losses cannot be passed through to shareholders), the only mechanism for obtaining the pass-through effect is the deduction for dividends paid by the REIT. In general, only distributions of money or property out of accumulated or current E&P are included in the dividends paid deduction.¹

For purposes of determining the amount of a distribution that constitutes a dividend and, thus, the amount eligible for the dividends paid deduction, REITs generally are required to calculate their E&P pursuant to § 312.² In many instances, REITs make distributions at or above their current E&P levels (as well as above their current taxable income) in order to minimize entity-level federal tax liability and to meet shareholder investment-return expectations. Hence, it is typical for REITs to have little or no accumulated E&P.

While REITs are entitled to depreciate qualified leasehold improvement property over the shortened recovery period of 15 years, the corresponding recovery period for E&P purposes was not shortened by the Jobs Act beyond 39 years.³

This difference in recovery periods for qualified leasehold improvement property could, if the 15-year life of such property is extended as we believe it should be, potentially have a negative effect on REIT shareholders and prevent the intended benefits associated with the shortened recovery period from being realized.

For example, a REIT claims depreciation deductions on qualified leasehold improvement property over 15 and 39 years, respectively, in determining its taxable income and E&P. The potentially negative effect of not conforming taxable income and E&P depreciation deductions can be illustrated by the effects that may occur during years 1–15 of the depreciation recovery period and years 16–39 of the depreciation recovery period, respectively, as set forth below.

Years 1–15: Shareholders' Taxable Dividends May Exceed REIT's Taxable Income

Excluding other E&P adjustments, the REIT will have less taxable income than its E&P during the first 15 years due to the shorter recovery period for taxable income. Because the taxability of distributions to shareholders is based on E&P which has a much longer recovery period of 39 years, essentially, REIT E&P will be "artificially" high, thereby resulting in the shareholders' paying tax on an amount of income that exceeds the amount of income earned by the REIT. Thus, REIT shareholders will not realize the intended benefits associated with the shortened recovery period of 15 years.

Years 16–39: Possible Failure to Meet 90% Distribution Test/Shareholders' Taxable Dividends May Continue to Exceed REIT's Taxable Income

When such qualified leasehold improvement property is fully depreciated after 15 years, the REIT's taxable income subsequently will be greater than its E&P because of continuing depreciation deductions for E&P purposes that are no longer occurring

¹ See §§ 562 and 316.

² See Treas. Reg. § 1.856-1(c)(6) and (7).

³ §§ 312(k)(3)(A), 168(g)(3)(B). See also § 168(e)(3)(E)(iv).

for purposes of calculating taxable income. To the extent the difference caused by the different recovery periods is substantial, the REIT that typically distributed in excess of taxable income in the past (thereby eliminating its E&P in such years) may face a situation in which its E&P is less than 90% of its taxable income. Because its deduction for dividends paid is limited by its E&P, the REIT may fail to have a deduction for dividends paid equal to at least 90% of its taxable income.⁴

Furthermore, the effect on REIT shareholders noted above could continue: REIT E&P could be “artificially” high, thereby resulting in the treatment of an “artificially” greater portion of shareholders’ distributions as taxable dividends.⁵ Thus, in a worst case scenario, the difference in recovery periods may cause a REIT to lose its REIT status and be subjected to tax at both the entity and shareholder levels.

Proposed Solution

When Congress enacted the shortened 15-year depreciation period for leasehold improvements last year, it is unlikely that the effects on REITs and their shareholders described above were intended or contemplated.

Accordingly, we respectfully request that any further extension of the 15-year recovery period for qualified leasehold improvement property be accompanied by an amendment to Code § 168(g)(3)(B) to provide a corresponding 15-year recovery period to qualified leasehold improvement property for E&P purposes. Similarly, we request that any change to the calculation of depreciation be matched with a conforming amendment to the calculation of a REIT’s E&P.

NAREIT thanks the Subcommittee for the opportunity to submit these comments on this important issue.

Cupertino, California 95014
August 20, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have submitted my testimony and shared my story at 6–15–2004, Hearing on Tax Simplification, Oversight sub-Committee.

I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson’s H.R. 3385.

My name is Kimhoe Pang. I am a software engineer of Network Appliance. I exercised some stock option in year 2000 under the Incentive Stock Options (ISO) scheme. I did not sell any of the exercised stock to get profits. The ISO exercise created a huge AMT tax. I have \$367,684.00 tax due in 2000. It amount is more than 3 time of my annual salary. This tax payment actually becomes a credit and can never be recovered by me. In essence, I can lose all the investment money, and also other assets, simply to create a tax credit in my IRS account.

Due to the stock crises in 2000, I did not have enough money to pay tax. I filed an Offer in Compromise (OIC) and the OIC was denied after two and half years. IRS has started the collection process and has put a lien on all my properties. I am the only one who brings income to my family. My family (five people) still live in a two bedrooms rented apartment. However, the IRS officers told us that they only

⁴Section 857(d)(2) provides that a REIT will always be treated as having adequate earnings and profits to make distributions as dividends sufficient to avoid the excise tax under § 4981. The rules for determining the “required distribution” for purposes of avoiding the excise tax under § 4981 are complicated, but they basically require a distribution as a dividend of 85% of the REIT’s ordinary income and 95% of the REIT’s capital gain net income. Because § 857(d)(2) only ensures sufficient earnings and profits to avoid the excise tax and does not provide sufficient earnings and profits to meet the 90% distribution test under § 857(a)(1), it is possible that the REIT could fail the distribution test due to the depreciation of tenant improvements.

⁵If the increased depreciation of tenant improvements for earnings and profits purposes in years 16–39 require a REIT to invoke § 857(d)(2) so that it would have enough earnings and profits to avoid the excise tax under § 4981, this effective disallowance of depreciation would cause the REIT shareholders to report artificially high dividend income in those years. In addition, there is an alternate view that *no* deductions for depreciation are permissible against E&P in years 16–39 due to the application of § 857(d)(1) (which prohibits reducing E&P for any taxable year by an “amount” not “allowable” in computing taxable income for such year). If this view were correct, the REIT should not fail to meet its 90% distribution requirement. On the other hand, a REIT shareholder would be placed in an even worse position with the 15-year depreciation period than it is in with a 39-year depreciation period. Under this view, E&P would be reduced in years 1–15 based on a 39-year depreciation recovery period, but E&P would not be reduced at all in years 16–39, thereby greatly increasing the taxable portion of the REIT’s distribution in the latter years. Thus, the shareholder could end up paying tax on income that greatly exceeds the income that is earned by the REIT.

concern about the tax we have not paid. They are regardless about the fairness of the tax.

We are still facing financial crisis. IRS already starts collection process. We have to pay the huge tax that is base on the profit we never make.

I respectfully and urgently request your support of H.R. 3385.

Sincerely,

Kimhoe Pang

Issaquah, Washington 98027
August 30, 2005

Honorable Chairman Camp and Ranking Member McNulty
House Ways and Means Committee

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have submitted my testimony and shared my story at the following events:

- 6-15-2004, Hearing on Tax Simplification, Oversight sub-Committee
- 9-23-2004, Hearing on Select Tax Issues, Select Revenue Measures sub-Committee
- 6-08-2005, Hearing on Tax Reform, Full Committee
- April/May 2005, Senate Finance Committee Chairman Grassley
- Spring/Summer 2005, President's Tax Reform Advisory Panel

I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

In 1997 I went to work for a new internet company, Exodus Communications, who granted sales employees pre IPO stock shares upon hiring. After the IPO and some time of employment I hired a financial planning firm to advise me on how to best handle these options. I was advised to exercise the options as they became available and then hold for one year from that date before diversification. I took this advice. During this time between 2000 and 2001 (within several months) the stock fell from the high \$100s per share to landing at less than \$10. I was laid off in May of 2001 when we finally sold our shares at \$.10 after Exodus's bankruptcy.

I was laid off just before Exodus declared bankruptcy and found myself unemployed for 7 months. Meanwhile, we had to sell our house and all other valuables to make it through this period financially. My husband had quadruple bypass surgery unexpectedly in 2001 causing further financial difficulty and personal stress. We have not recovered from the financial challenges that losing my job, stock value and medical bills caused our family, not to speak of the outstanding balance expected by the IRS for AMT fees.

Since 2001 we have been attempting to work with the IRS as the amount they calculated we owed them based on the AMT value is over \$600,000. As you can tell from this writing we incurred a huge loss on the "ownership" of these granted shares. The IRS denied our Offer In Compromise and has not proactively worked with us. We have retained counsel to help us try to avoid all collection issues with the IRS and had to borrow money exceeding \$15,000 to gain representation.

We have no means to pay the IRS and, of course, feel there is no real debt to re-pay. This has been going on for nearly 5 years with a lien on our credit and ongoing fees to attorneys to keep collection at bay. The next step is the IRS waves our fees or we must declare personal bankruptcy. This AMT situation seems completely unfair and not the proper application for its original intention. We join AMT Reform in asking Congress to instruct the IRS to hold off on current collection efforts until new legislation can be addressed.

We respectfully and urgently request your support of H.R. 3385.

Bob and Susan Pessemier

ReformAMT
Sunnyvale, California 94086
August 25, 2005

Dear Chairman Camp and Select Revenue Measures Subcommittee Members:

*We strongly encourage the subcommittee's support of Congressman Sam Johnson's recently introduced bill, **H.R. 3385**, to correct the existing inequities associated with individual taxpayers' ability to recover Alternative Minimum Tax credits. The cur-*

rent law makes it very difficult, if not impossible, for individual taxpayers to recover AMT credits, resulting in perpetual interest-free loans to the government.

We are a two-income household (both with full-time jobs as individual contributors—not managers or company officers) with three young children living in California—a high-tax state, as you well know. About nine years ago, in lieu of a higher salary, incentive stock options became part of our employment compensation.

As a result of exercising and holding (to qualify for the long-term capital gains tax rate) Incentive Stock Option (ISO) shares in 2000, we incurred a Federal AMT bill of several times our normal annual income. Luckily, in that year we sought and received sound advice on the AMT implications of that plan. Between doing same-day-sales in 2000 on remaining ISO shares and taking out loans against our 401(k) retirement accounts, we were able to meet our AMT obligation on April 15, 2001. Thus, we have not run afoul of the IRS and have not had to worry about losing our home, unlike many others who exercised and held ISOs during that time period.

With the large decline in the stock markets since 2000, the shares we still hold are worth a small fraction of their value upon exercise. So, at this point the government is holding our entire gain (representing many years of hard work) from the ISOs in the form of a large AMT credit. Please also note that for tax year 2000 we paid *(on shares that we purchased then, but have held for over five years now)* at the AMT rate of 28%, while under the current law our long-term capital gains rate upon sale would be 15%. *The mandatory pre-payment of tax under AMT was at almost double the rate that the regular tax system requires!*

When we first saw the size of our AMT credit, we thought we would be lucky to finish recovering it before we both died of old age. After filing our last four tax returns, though, we see that unless something changes we will never recover the vast majority of that credit during our lifetimes.

Here is how much we've been able to recover, on a percentage basis, for the 2001–2004 tax years. (Note that our tax returns for these years have included no other extraordinary events.)

Tax Year	% of AMT credit recovered
2001	0.56%
2002	0.17%
2003	0.13%
2004	0.00%
Total	0.86%

Less than one percent of our AMT credit has been recovered in the four tax years since the credit was established! And the trend down to zero in 2004 does not bode well for future years.

Under the current tax law we have very little hope of recovering this interest-free loan to the government. These funds would go a long way toward ensuring that we will be able to afford college educations for our three children.

Please support Congressman Johnson's H.R. 3385 to accelerate individual taxpayers' ability to recover AMT credits!

Thank you very much for your consideration.

Steven and Danna Pintner
Individual Taxpayers

Estero, Florida 33928
August 30, 2005

Honorable E. Clay Shaw
U.S. House of Representatives
1236 Longworth House Office Building
Washington DC 20515

Dear Representative Shaw:

My name is Leon R. Quesnette, Sr. and I am writing on behalf of my son, regarding a huge AMT tax debt that my son incurred on “phantom” gains due to the application of the Alternative Minimum Tax to incentive stock options (ISOs). I have attached a copy of my son's personal story that they submitted to the Tax Panel/Over-sight Committee of the Ways and Means.

I would like to ask for your active support and co-sponsorship of H.R. 3385. This important legislation was recently introduced by Reps. Johnson (TX), Neal, McCrery, Jefferson, Ramstad, Lofgren, Shaw, Honda and Johnson (CT), to provide relief for taxpayers subjected to unfair and unjust tax treatment due to the AMT treatment ISOs. In addition to the unfair effect on my son, this serious problem has impacted many employees of small and large companies across America, often resulting in taxes up to and exceeding 300 percent of these employees' annual salaries. Workers are being forced to pay tens of thousands, hundreds of thousands, and even millions of dollars in tax overpayments on income they will never receive.

Please join the groundswell of support for remedying this serious injustice through this fair and comprehensive ISO AMT legislation. This bi-partisan effort is building support in Congress, the Press, Corporate America, the Taxpayer Advocate's office. Grassroots organizations like the Coalition for Tax Fairness www.fair-iso.org and ReformAMT www.ReformAMT.org are actively supporting this important legislation, and may be contacting your office to secure your support.

I thank you for your support for this effort, as your support is critical to restoring a fair and just tax system for all Americans—including hardworking, entrepreneurial Americans. Please do not hesitate to contact me if you have any questions.

Sincerely,

Leon R. Quesnette, Sr.

Boynton Beach, Florida 33435
August 30, 2005

Honorable E. Clay Shaw
U.S. House of Representatives
1236 Longworth House Office Building
Washington DC 20515

Dear Representative Shaw:

My name is Michael J. Quesnette and I am writing regarding a huge AMT tax debt that we incurred on "phantom" gains due to the application of the Alternative Minimum Tax to incentive stock options (ISOs). I have attached a copy of the story I submitted to the Tax Panel or Oversight that they submitted to the Tax Panel/Oversight Committee of the Ways and Means.

I would like to ask for your active support and co-sponsorship of H.R. 3385. This important legislation was recently introduced by Reps. Johnson (TX), Neal, McCrery, Jefferson, Ramstad, Lofgren, Shaw, Honda and Johnson (CT), to provide relief for taxpayers subjected to unfair and unjust tax treatment due to the AMT treatment ISOs. In addition to unfairly affecting me, this serious problem has impacted many employees of small and large companies across America, often resulting in taxes up to and exceeding 300 percent of these employees' annual salaries. Workers are being forced to pay tens of thousands, hundreds of thousands, and even millions of dollars in tax overpayments on income they will never receive.

Please join the groundswell of support for remedying this serious injustice through this ISO AMT legislation. This bi-partisan effort is building support in Congress, the Press, Corporate America, the Taxpayer Advocate's office. Grassroots organizations like the ReformAMT www.reformamt.org and the Coalition for Tax Fairness www.fair-iso.org are actively supporting this important legislation, and may be contacting your office to secure your support.

I thank you for your leadership this effort, as your support is critical to restoring a fair and just tax system for all Americans—including hardworking, entrepreneurial Americans. Please do not hesitate to contact me if you have any questions.

Sincerely,

Michael J. Quesnette

Austin, Texas 78734
November 28, 2005

Committee on Ways and Means
U.S. House of Representatives
Washington, DC

Dear Sirs:

Several years ago, I bought stock by exercising "incentive" stock options (ISO) issued by the company I worked for.

I NEVER SOLD the stock.

I made NO PROFIT on the stock, and I have no hope of ever making a profit on it.

Despite those facts, the current Alternative Minimum Tax law required me to pay income tax AS IF I had made a profit on the day I exercised the options.

The current AMT law allows the U.S. Treasury to collect tax on "*PHANTOM PROFITS*."

I have, in effect, provided the U.S. Treasury an interest-free loan for four years by PREPAYING TAX on income that I will NEVER receive in my entire lifetime.

This is so bizarre and so unfair that it is hard to comprehend. The U.S. Congress never could have intended to cause such injustice and should be anxious to correct it.

H.R. 3385, The AMT Credit Fairness Act, was recently introduced by Representatives Johnson (TX), Neal, McCrery, Jefferson, Ramstad, Lofgren, Shaw, Honda and Johnson (CT), to provide relief for taxpayers subjected to this UNFAIR TAX. This measure provides a fair and reasonable remedy.

Please work to pass H.R. 3385—AMT Credit Fairness Act.

Thank you for your leadership to insure a fair and just tax system.

Sincerely,

Dr. Terry Ross

Smyrna, Georgia 30082
July 26, 2005

The Honorable Phil Gingrey
United States House of Representatives
119 Cannon House Office Building
Washington, D.C. 20515-1011

Dear Representative [Your Representative]:

My name is Jeanne Savelle and I am writing on behalf of myself and my husband regarding a large AMT tax debt that we incurred on "phantom" gains due to the application of the Alternative Minimum Tax to incentive stock options (ISOs). See letter attached for details.

I would like to ask for your active support and co-sponsorship of H.R. 3385. This important legislation was recently introduced by Reps. Johnson (TX), Neal, McCrery, Jefferson, Ramstad, Lofgren, Shaw, Honda and Johnson (CT), to provide relief for taxpayers subjected to unfair and unjust tax treatment due to the AMT treatment ISOs. In addition to unfairly affecting me, this serious problem has impacted many employees of small and large companies across America, often resulting in taxes up to and exceeding 300 percent of these employees' annual salaries. Workers are being forced to pay tens of thousands, hundreds of thousands, and even millions of dollars in tax overpayments on income they will never receive.

Please join the groundswell of support for remedying this serious injustice through this ISO AMT legislation. This bi-partisan effort is building support in Congress, the Press, Corporate America, the Taxpayer Advocate's office. Grassroots organizations like the ReformAMT www.reformamt.org and the Coalition for Tax Fairness www.fair-iso.org are actively supporting this important legislation, and may be contacting your office to secure your support.

I thank you for your leadership this effort, as your support is critical to restoring a fair and just tax system for all Americans—including hardworking, entrepreneurial Americans. Please do not hesitate to contact me if you have any questions.

Jeanne Savelle

Comments: *Congressman Phil Gingrey's (R-GA-11th)*

I have been working for a major Fortune 500 company for over 17 years. Stock Options have always been described as part of the compensation package. Every year nice brochures explaining the program are distributed to those eligible and the brochures mostly present the positive impacts and steps to exercise. Negative effects are not shown. Granted, statements are always included to the effect that tax advice should be an integral part of every stock option decision.

As stock options and AMT have historically not been part of the middle class financial dream until as I recall the late 1980s, it seems that there has been little knowledge of their impact among the middle class and the tax professionals serving them. I wasn't granted options myself until 1991 and didn't exercise anything but a nominal amount until 1999. At that time, we engaged a tax professional who was just that and was very knowledgeable on a number of issues. However, we were his first client that had stock options and AMT. Initially, he did not think we qualified under AMT but that illusion was quickly dismissed through an amended tax return.

In three years, an additional \$205k was added as AMT income to my return calculations resulting in additional cash payments of \$44k plus an unused credit to date of more than \$22k. Without the AMT impact I would have received a net refund over those years of \$6k. Of course, I did not plan on paying out those amounts of cash at the end of each tax season as I did assume to be more or less even throughout the year.

Those cash payments had to be made out of savings that I would have contributed to my husband's retirement fund. He is self-employed and therefore had no contributions for those years as the money went to the IRS instead. This may not seem like a lot of money to many people but it delayed funding any retirement for my husband at all until 2003 from our original plans to begin in 1999. Obviously we have missed out on four years of contributions, growth and interest.

We changed our tax professional in 2003 to one that has more experience with AMT and stock options and of course we are paying more than three times the fees for his services as we paid before. So one professional lost business and another has cost us even more money out the door but if you do not have a professional that knows this inside and out, the costs will be even higher.

There are other effects as well with AMT: does one hold exercised stock to take advantage of capital gains only to see that stock drop in value though the tax was paid up front on a higher value? Surely most all of us have suffered from this type of effect as well. Will one ever be able to recover the credits? The more than \$20k in credits that I have currently have remained basically untouched since 1999. How does one recover these amounts? Can we charge the IRS interest for holding our money?

Most people are hard working and honest and are willing to pay their fair share of taxes. We are not asking for favorable treatment nor do we want to cheat on our taxes. However, having to pay taxes for something not realized seems a bit off base and this issue has impacted so many more people than those it was intended to reach that the time has come to stop the madness.

Jeanne Savelle

Excelsior, Minnesota 55331
August 25, 2005

To: Members of the House Ways and Means Committee—Hearing on Member Proposals on Tax Issues/Reform

Dear Committee Members:

I have submitted my testimony and shared my story on Alternative Minimum Tax (AMT) at a number of events, including the recent President's Tax Reform Advisory Panel. I am writing this letter to you directly to provide my personal testimony with regards to Alternative Minimum Tax (AMT) for individual tax payers and to ask for your support and leadership in regards to Bill H.R. 3385, introduced by the Honorable Sam Johnson on July 21, 2005 and co-sponsored by a number of Ways and Means Committee members.

Our family paid over \$1.7 Million AMT in Tax Year 2000, due to phantom gains on Incentive Stock Options (ISOs) that were exercised but not sold. Specifically, the AMT was paid due to paper gains on 70,000 Ariba ISOs that we exercised when at the stock's value was over \$110/share. Due to a Blackout Period, I was unable to trade the stock until after the end of the tax year. The stock is now worth less than \$1/share, with an *economic benefit* of about \$70,000, as opposed to the

\$7,700,000 paper gain we were taxed on. I ask that you focus on those numbers. **We paid a \$1,700,000 tax for an economic benefit of \$70,000** due to what Senator Joe Lieberman described as a “Kafkaesque situation” and the “tax equivalent of the perfect storm”. These statements were part of Senator Lieberman’s congressional record statement made when he introduced Bill #S1324, an Alternative Minimum Tax (AMT) relief bill with respect to Incentive Stock Options (ISOs) for tax year 2000, on August 8, 2001.

Senator Lieberman is not alone in his search of a fair law to replace the current AMT law and the problem does not appear to be a partisan political issue. Many bills were introduced on this subject prior to 2001 and numerous bills have been introduced since. Several have been introduced into this session of Congress, including the most recent Bill H.R. 3385 for which this letter requests your support. My analysis shows that both Republicans and Democrats support ISO AMT reform. This support includes many members of the 109th Congress Committee on Ways and Means: Reps. Wally Herger, Jim McCrery, Jim Ramstad, Eric Cantor, E. Clay Shaw, Jr., Sam Johnson, Phil English, Jerry Weller, Ron Lewis, Mark Foley, Kevin Brady, Richard Neal, William Jefferson, and Lloyd Doggett.

There is no question that AMT is not serving the purpose for which it was originally intended and that it must be totally revised soon for many reasons. This hypothesis is supported by most informed civilian and government agencies aware of the original intent and the current implementation of the law, including:

- The United States General Accounting Office
- Congress Joint Committee on Taxation
- The Brookings Institution
- The National Taxpayers Advocate (a division of the IRS)
- The American Bar Association (ABA)
- American Institute of Certified Public Accountants (AICPA)
- Tax Executives Institute (TEI)
- The National Venture Capital Association

Tax law for AMT on ISOs as currently written is highly confusing and very unfair. The Instructions for Form 6251 (AMT—Individuals) when filing my 2000 taxes stated the following:

“The tax laws give special treatment to some types of income, allow special deductions for some types of expenses, and allow credits for certain tax payers. These laws enable some taxpayers with substantial economic income to significantly reduce their regular tax. The AMT ensures that these taxpayers pay at least a minimum of tax on their *economic income*.”

My family has no special credits, deductions, or exemptions that significantly reduce our regular tax and we have been caught in a situation where our AMT tax burden on ISOs has far exceeded any **economic benefit** we have or ever will gain from ISOs exercised in tax year 2000. In short, we are 2000 AMT victims that Senator Lieberman described as, “fell into a trap which the tax code created through its perverse and confusing structure” in his congressional record statement on August 8, 2001.

I am not a wealthy executive. I am a 46 year-old sales representative that received the ISOs because I joined a company before they were well known and opened a territory for them to make them well known. My wife, Velinda, is a stay-at-home Mom for our 8 year-old daughter Emma and 4 year-old son Quinn. When we became aware of our AMT obligation in 2001, we liquidated all of our assets and paid the AMT, including a substantial penalty that incurred during the period that it took us to liquidate those assets. **We paid tax on paper gains that exceed my salary for a lifetime.** I continue to work and pay taxes. Interestingly enough, I seem to get hit with AMT every year. It seems a little odd that the taxes we continue to pay continue to be used to support people that find themselves the victims of unfortunate circumstances, yet no such support is there for those of us that got caught in the AMT trap in 2000.

Please use this testimony as an example of the unfairness of this law as it is currently written and to promote reform of the AMT for Individuals tax laws, including relief for those of us that lost all of our assets in 2001. I believe that doing so is very much on the spirit of President Bush’s tax relief package, which allows Americans to keep more of their own money. I respectfully request your leadership and support of H.R. 3385 as a part of your efforts to accomplish this vision.

Thomas John Schrepel

**Statement of Eddie I Sierra, Florida International University, Miami,
Florida**

I would like to thank the Subcommittee for providing an opportunity to make a statement related to the Ways and Means Select Revenue Measures Subcommittee hearing and H.R. 414, the hearing aid tax credit. I am writing on behalf of Step-Up, the Disability Student Organization at Florida International University (FIU), of which I am President. My organization is composed of 600 student-members who have a diverse array of disabilities. Our group represents many of the silent voices in our society. I am a person with a profound hearing-impairment; however, I have overcome this disability and I am now in my senior year at Florida International University, currently doing an internship with the Fund for American Studies at Georgetown University.

I was given an opportunity to succeed by my parents' when they had me fitted with my first pair of hearing-aids. My parents' dedication to my well being at that time was crucial to my progress. Since that first fitting trip to my audiologist's office, my life has been forever different. I am now a productive member of society. I have managed to excel in all of my academic endeavors from required college coursework to the rigorous system of the Honors College curriculum at FIU. I give full credit to my hearing care providers, my speech therapist, and my school counselors, but most importantly to my *hearing-aids*. Without them, I would not be the independent and productive individual that I am today.

Failure to treat hearing loss creates a myriad of problems for America's future generations, including significantly reduced income potential for an individual. Failure to treat hearing loss is especially devastating for children. I have witnessed first hand what happens to those children whose parents cannot afford the cost of a hearing aid. These children have been deprived of a mainstream education and have succumbed to a life without goals and ambitions. Children who do not receive early intervention for hearing loss can cost schools an additional \$420,000 and are faced with overall lifetime costs estimated to be \$1 million in the areas of special education, lost wages and health complications, according to a study published in the "International Journal of Pediatric Otorhinolaryngology." Children who receive early treatment, however, can thrive in the mainstream educational system, as I have. For this reason, the benefits of H.R. 414 that provide financial assistance for parents of children who need hearing-aids are of critical importance.

For the 31 million Americans, who have some degree of hearing loss, 95 percent can be treated with hearing aids. Yet only 20 percent of those with hearing loss use hearing aids, while 30 percent cite financial constraints as the reason they do not use hearing aids. This modest bill would help children in similar situations like mine. This bill provides people like me the freedom to choose the appropriate and effective level of hearing aid technology from a professional provider. I strongly urge you to support this bill, and I appreciate the Subcommittee's attention to this tax proposal and for holding this hearing today. We encourage Subcommittee members to support the *Hearing Aid Assistance Tax Credit Act (H.R. 414)* to provide \$500 tax credit for hearing aids which will help the lives of hearing impaired children in America.

Ely, Iowa 52227
August 31, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I am writing to you on behalf of my family because we desperately need your help. We have been improperly assessed by a flaw in the tax code and we need you to step forward and help save our family. In the year 2000 our taxable income was \$105,461. For that same year we received an Alternative Minimum Tax of \$206,191 from the Federal and \$46,792 from the State of Iowa. A total tax of \$252,893 for a gain that we NEVER made.

In December of 1992 I took a chance on a small telecommunications start up in Iowa called McLeodUSA. To compensate the employees the company used stock options as part of its compensation. This is what we were using to plan our future. We had saved all the options we received to use on building a home, our three daughters education, and our retirement.

In 2000 we were ready to start building our home so we spoke to our financial and tax advisers to determine the best way to use the stock. Based on the current tax laws, they told us to exercise the options and hold them for a year so we would be charged long-term capital gains on the income. We exercised the stock but did

NOT sell it. As the home was nearing completion we had our taxes done by an accountant and received this unjust tax bill. The stock value had plummeted so we borrowed money from a local bank to try to pay the tax. We paid the State tax in full and \$94,484 of the Federal in payments. Our local IRS collections agent reviewed our case and told us there was no way we could pay the remainder off and instructed us to inter into the IRS's Offer In Compromise program. They said the OIC program was put in place to solve impossible situations just like ours.

After waiting for 8 months we were finally assigned to an OIC Specialist. The OIC Specialist has utilized the formulas and guidance that our government has put into place and has informed us that we have been rejected from the OIC program. He told our attorney that I have three things going against me, I am not old, I am not disabled, and I have been too consistent. I have been too consistent because I've been employed and paying income tax since I was fourteen years old. I've never filed bankruptcy. I've never defaulted on a loan. According to the archaic computations the IRS used our family should only have housing and utility costs of \$1,067 per month, our actual is over \$3,700. Based on their allotment we are supposed to be able to pay \$2,366 per month to settle the debt and a lien has been placed on our home. There is no way we will be able to pay this amount. We have appealed our case with the U.S. Tax Court but have been rejected by the Court also. Both the IRS and the Court say it's up to congress to fix this. We desperately need Senate Finance to place a "stay" on the IRS collections pending the Sam Johnson ISO AMT remedial legislation that will correct this horrible wrong. Our story is a legitimate case that can't be disputed as being horribly wrong. Please use the powers you possess to right this inscievable outright injustice. I beg of your help.

I have been nothing but honest to the letter of the law in paying taxes my entire life. It seems incredible to me that I should be financially destroyed by a tax that is so unjust.

I respectfully and urgently request your support of H.R. 3385.

Ron Speltz

Statement of Mike Strick, Seattle, Washington

Dear Honorable Chairman Camp and Ranking Member McNulty,

I understand that there was a House Ways and Means Committee hearing on Tax Simplification with regard to the Alternative Minimum Tax on June 15, 2004. I noticed you were looking for stories of "middle class" Americans who have been affected by the current parameters of the AMT. I am one of those people.

I worked for Internap Network Services, an internet connectivity company, for almost two years before being laid off in April, 2001. While I was working, I was also in graduate school for psychology to become a counselor. At one time, Internap's stock traded as high as \$220/share before splitting to \$110. Yesterday, Internap closed at about \$1.00/share. I exercised incentive stock options to acquire a number of shares in July, August, and September of 2000 with the intention of holding them for the long term. I assumed I would have enough value in the stock that I could pay off the AMT I owed. I would have never guessed the stock would drop to \$1.00/share and hover there for the next three years . . . and that I would end up owing almost \$100,000 in AMT—money I just don't have. I find it hard to fathom that I owe so much because I ended up paying huge taxes on a phantom gain. My tax alone was more than two years worth of income for me.

I ended up in negotiation with the IRS via an Offer in Compromise for almost three years. We ended up "compromising" so that I would lose everything I own (retirement savings, investments, emergency funds, IRA's, etc), plus about 20% more, all to be paid over the course of two years. This situation has affected every aspect of my life and will impact my future for years to come.

In retrospect, I realize I made a mistake by not delving deep enough into a complicated tax code to understand the possible outcome of my ISO exercises. I am working to pay off my debt as a counselor with developmentally disabled folks. But, I feel the AMT laws as written are not working the way they were intended, and I don't want others to have to go through the same hardships I am enduring. Change is needed. I would be happy to give more details or talk about my situation. I appreciate your time and concern and I respectfully request your support of H.R. 3385.

Santa Cruz, Californai 95060
August 31, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty,

I submitted testimony and shared my story at previous events:

- April/May 2005, Senate Finance Committee, Chairman Grassley
- Spring/Summer 2005, President's Tax Reform Advisory Panel

I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

When we met with our tax preparer for the 2000 tax year, we were very surprised to learn that the IRS demanded from our middle class family AMT tax of more than \$230,000 due to paper gains on stock options that dropped in value during the year, even though we never received gains in reality.

As a result of the tax bill on the "paper" profits that we never received, we had to take out a second mortgage on our home and deplete our daughter's college fund to pay the IRS and avoid a threatened lien on our house.

Today, we no longer have college savings for our daughter, who is 13 years old and a straight-A student who deserves to go to a good American university. The irony is that all the money she needs to attend college is sitting with the IRS in the form of a tax credit. However, no matter how hard we plan, our AMT and our regular tax bills are nearly identical each year, so we are never able to generate a sufficient AMT credit to receive a refund that would put the money back into our hands and allow us to invest it in a 529 or other college savings fund on her behalf.

Please help ordinary American families like ours recoup AMT credits and send our children to college.

I respectfully and urgently request your support of H.R. 3385.

Michael Sullivan

Somerville, Massachusetts 02144
August 18, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have submitted my testimony and shared my story at the Ways and Means Committee Hearing on Tax Simplification on 6-15-2004. I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

I am writing to enlist your help in fixing the Alternative Minimum Tax (AMT) law to help me obtain more than \$100,000 that I overpaid to the Government while I can still use it to help pay for my children's education, care for my aging parents and, hopefully, afford retirement instead of having to take small credits for each of the next 20 years.

For almost 5 years, I have worked for a company, named webMethods, which has created over 850 new jobs in the last four years of operation. To reward and retain its employees, webMethods makes extensive use of incentive stock options (ISO).

As an early employee of the company, I received a number of stock option grants. Unfortunately, I made the grave mistake of exercising these options in one year and selling them in another. That action, coupled with the fact that webMethods was the #1 software initial public offering (IPO) in history, created an enormous AMT tax bill (\$250K+) for my wife and I. The taxes I paid and the value of the stock exists now only as a \$250K AMT credit, which, as I explain below, I can draw at the rate of only a few thousand dollars a year.

We had to sell most of our long term savings to pay this tax bill. We consider ourselves fortunate that we did not also have to sell our home or declare bankruptcy. All of this, just so we could pre-pay tax at a 28% rate when the actual tax is only 15%. You must also know that the AMT is affecting an increasing number of middle-income taxpayers, which is, and should be, of great concern to many law-makers.

Fundamentally, the AMT treatment of ISOs is wrong and should be fixed—ideally the AMT should be eliminated. That said, our immediate problem is the AMT tax crediting process. Each year, we are only credited the difference between our regular and AMT tax calculations—for the 2002 tax year our credit was a little over \$5,000. At this rate, it will take us more than 20 years to get our entire overpayment back from the U.S. Government. This delay represents opportunity cost for a better retirement, good schools for our children, and money to care for our aging parents.

Clearly structural changes are needed, but what my wife and I want immediately addressed is our outstanding AMT tax credit. H.R. 3385 has provisions that address this issue and I respectfully and urgently request your support of H.R. 3385.

Shawn W. Szturma

Milan, Michigan 48160
August 31, 2005

Honorable John D. Dingell
U.S. House of Representatives
15th District, Michigan
19855 W. Outer Drive
Suite 103-E
Dearborn, MI 48124

Dear Representative Dingell:

I had the good fortune of meeting with you in person during an open meeting in Dearborn, Michigan on Tuesday, August 30, 2005. The purpose of my letter is to better inform you of the specifics regarding a rather large AMT tax debt that I incurred on "phantom" gains due to the application of the Alternative Minimum Tax to incentive stock options (ISOs). This letter also comes as a result of your personal recommendation during our brief meeting.

The issue with the AMT and ISOs is very complicated. The table below has been added to assist in detailing the financial woes that myself, and many others, have learned about "the hard way".

In 2000, I took out a Home Equity loan to cover costs associated with the exercise of 13,166 stocks options with my current employer. At the time of the sale, the stock was trading at \$7.50. My exercise price was \$3.10 per share, and I chose to "hold" the stocks for a minimum of one year in order to take advantage of the lower capital gains tax rate of 20%. What I did not know at the time of exercise was that my unrealized, or "phantom" gain of \$57,930.40 was subject to a form of taxation (the AMT) even though the stocks were not actually sold. As such, I incurred a very large, unexpected tax liability when my 2000 tax returns were completed. At this point, I also "earned" an AMT credit of \$12,403 which could be applied to future taxes, or at least that was what I thought.

Unfortunately, the stock price continued to fall and in 2004 I actually sold the securities and realized a gain of \$2,399.00. This was a far cry from the "phantom" gain of \$57,930.40 which formed the basis of my AMT in 2000. While preparing for my 2004 tax return, I assumed that the complete \$12,403 tax credit would be refunded to me based upon the fact that my realized gain was only a mere 5% of the "phantom" gain. However, after much consultation with my tax advisor, I soon learned that this event (the actual sale of the securities) was not an adequate event to trigger the complete release of the tax credit per our current tax code. The resultant AMT credit carried forward was reduced to \$11,397.00. Further, my research has shown me that the AMT remaining credit is not likely to be refunded over the course of my life using conventional means.

I would like to ask for your active support and co-sponsorship of H.R. 3385. This important legislation was recently introduced by Reps. Johnson (TX), Neal, McCrery, Jefferson, Ramstad, Lofgren, Shaw, Honda and Johnson (CT), to provide relief for taxpayers subjected to unfair and unjust tax treatment due to the AMT treatment ISOs. In addition to unfairly affecting me, this serious problem has impacted many employees of small and large companies across America, often resulting in taxes up to and exceeding 300 percent of these employees' annual salaries. Workers are being forced to pay tens of thousands, hundreds of thousands, and even millions of dollars in tax overpayments on income they will never receive.

Please join the groundswell of support for remedying this serious injustice through this ISO AMT legislation. This bi-partisan effort is building support in Congress, the Press, Corporate America, the Taxpayer Advocate's office. Grassroots organizations like the ReformAMT www.reformamt.org and the Coalition for Tax Fairness www.fair-iso.org are actively supporting this important legislation, and may be contacting your office to secure your support.

Again, it was a pleasure to meet with you and have the opportunity to touch on this issue one on one. I am hopeful that you will see the injustice with the portion of the tax code affecting ISOs and take the appropriate countermeasures. Should

you have any additional questions or comments regarding my testimony, please feel free to contact me.

Best Regards,

John Terech

Redwood City, California 94062
August 30, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have submitted my testimony and shared my story at the President's Tax Reform Panel in May, 2005, as well as for H.R. 5141. I now wish to share my story with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

My story is simple, and yet so unfair and outlandish that few people outside of government believe it was possible. Quite simply, I paid \$334,000 in AMT taxes for stock I never sold (and therefore never profited from) and which was worth less than \$100,000 at the time. How is it possible to pay more in tax than an asset (stock) is worth? Alternative Minimum Tax, or AMT. I now have a huge AMT "tax credit" that I can never hope to recover. I understand the logic that was used to originally justify AMT, but the law as created was clearly flawed. Thousands, like me, have been forced to sell everything for a tax bill that is several times the worth of their gains/income, again, phantom profits.

In my own story, I went through both severe financial and emotional strain. The sleepless nights, the new anti-depressants (which I never took before), the new 2nd mortgage was almost overwhelming. I hold on as an optimist to this day that this injustice will someday be corrected. I know of others that were not able to hold on, and who have taken their own lives.

I respectfully and urgently request your support of H.R. 3385.

Ed Terpening

**Statement of The Honorable Ginny Brown-Waite, a Representative in
Congress from the State of Florida**

Thank you Mr. Chairman for holding this hearing today. It is a wonderful opportunity for members of Congress to provide their input on our nation's tax code.

Mr. Chairman, I would like to bring attention to an issue of growing importance for millions of Americans: long-term care services. In 2003, spending for long-term care services in the United States totaled \$181.9 billion, or 10.7% of all personal health care expenditures. With the population of individuals over age 65 expected to double by 2030, these services, and the costs associated with them, will only continue to grow.

Unfortunately, long-term care is very expensive for someone without insurance. One year of nursing home charges can range from \$60,000 to \$70,000. Even families who have insurance face hefty costs: base plan premiums can run from \$564 per year, for a 50-year old, to \$5,330 per year, for someone who is 79. Although long-term care insurance, Medicaid, and Medicare have helped individuals cover some of these costs, countless Americans have found themselves paying these bills on their own.

It is imperative that Congress helps alleviate the financial strains associated with a service on which so many Americans depend. To reduce this burden, I have introduced, H.R. 4104, the *Qualified Long-Term Care Fairness Act*. This bill extends existing long-term care deduction options to those who do not itemize on their tax returns. This tax deduction may be used for long-term care insurance premiums, activities of daily living, diagnostic, preventative, or rehabilitation services, and other services prescribed by a licensed health care practitioner. It is important to note that home health care expenses are also covered.

In closing Mr. Speaker, I would like to again thank you for allowing me to testify before the committee today. I look forward to working with my colleagues in the House of Representatives to ease the financial burdens facing millions of Americans.

**Statement of The Honorable Pete Hoekstra, a Representative in Congress
from the State of Michigan**

Thank you Chairman Camp for the opportunity to testify before you on tax legislation that is important to the nation and constituents in the Second Congressional District of Michigan.

The first piece of legislation that I would like to present before the committee is important both to the nation's economy and to the efficient use of energy in the United States.

A small business owner in Michigan's Second Congressional District brought to my attention a problem with the U.S. tax code, a problem that harms the environment and limits economic activity in an important American industry. The problem is that many of the heating, ventilation, air conditioning and refrigeration (HVACR) systems in today's buildings are old, inefficient and harmful to the environment and need to be replaced. The average lifespan of an air conditioning system in a commercial building is 15 to 20 years, yet the tax code treats them as though their lifespan is 39 years.

The tax code specifies a depreciation schedule for HVACR systems of 39 years, which is double their average lifespan. The depreciation schedule in the tax code acts as a disincentive to invest and replace large, old and inefficient HVACR systems in commercial buildings.

The unfair treatment of HVACR systems in the Tax Code is the reason I introduced, with bipartisan support, H.R. 1241, the Cool and Efficient Buildings Act.

The legislation would shorten the depreciation schedule for HVACR systems in commercial buildings to 20 years, which would more accurately reflect the lifespan of these units. The common sense change would positively impact the economy and the environment.

Reducing the depreciation period will provide an incentive for building owners to upgrade to more efficient equipment by allowing them to expense more of the costs of the systems each year. By replacing a building's existing units, building owners and managers lower energy costs and energy demand.

The U.S. air conditioning and refrigeration industry employs more than 150,000 workers and contributes \$30 billion annually to the U.S. economy. The U.S. HVACR industry exports \$4.7 billion annually, providing an industry trade surplus of more than \$2.1 billion.

Lowering the depreciation period to an accurate 20 years would encourage building owners to invest in new systems, creating business for American manufacturers and contractors.

Such a simple change in the tax code will improve the environment in two important ways: First, the replacement of old systems with newer, advanced technological systems greatly increases efficiency and reduces carbon dioxide emissions. New chillers are 34 to 42 percent more efficient than chillers installed 20 years ago.

Second, it would provide an incentive for the replacement of the 33,300 chillers still in use in 2005 that use chlorofluorocarbon (CFC) refrigerants. This represents 42 percent of the original 80,000 CFC chillers banned from production in the United States in 1995 due to concerns over the impact of CFCs have on the environment.

H.R. 1241, the Cool and Efficient Buildings Act, would make a common sense change to the U.S. tax code to the benefit of the U.S. economy and all Americans. I would like to express my appreciation to the 43 Members of Congress who have joined me in co-sponsoring H.R. 1241 and the various organizations that support this measure, including the Air Conditioning Contractors of America, the Air-Conditioning and Refrigeration Institute, Associated Builders and Contractors, Associated General Contractors, the Council for an Energy Efficient Economy, and the Sheet Metal Air Conditioning Contractors National Association.

The second piece of legislation that I am presenting before the committee is important to families who have lost loved ones serving the United States overseas.

Many patriots throughout the country have made the difficult decision to provide for their families by working for government contractors in combat zones to help America fight the war on terror. Sadly, many have paid the ultimate price for the love of their family and nation.

The legislation that I present to you today would create tax exemptions on the death benefit and wages for the year an employee of a federal government contractor was killed while working in a combat zone.

H.R. 3745 was developed in cooperation with a constituent whose husband was killed in Iraq while working for a contractor. Many of our colleagues have experienced similar situations in which a family in their district needs relief after losing a loved one who was working in Iraq or Afghanistan.

The legislation would extend the same tax treatment for military personnel to federal contractors. Under current law, when a member of the U.S. Armed Services dies from wounds, disease or other injury incurred in a combat zone, their descendant's income tax liability is forgiven for the year in which the death occurred. It is also forgiven for any earlier year ending on or after the first day the member actively served in a combat zone.

H.R. 3745 would minimally impact the nation's revenue, but it would provide much-needed relief to families across America.

Mr. Chairman, thank you again for the opportunity to present H.R. 3745 and H.R. 1241 before your Subcommittee.

Shoreview, Minnesota 55126
August 30, 2005

House Ways and Means Committee

Dear Members of the House Ways & Means Committee:

My name is Phil Thompson, and I have submitted my testimony and shared my story at these past events:

- 6-15-2004, Hearing on Tax Simplification, Oversight sub-Committee
- 6-08-2005, Hearing on Tax Reform, Full Committee
- April/May 2005, Senate Finance Committee Chairman Grassley
- Spring/Summer 2005, President's Tax Reform Advisory Panel

I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's **H.R. 3385**.

I am 44 years old. In 1997 I accepted a position as a software engineer with a software company located in Roseville, Minnesota. In addition to salary, I was given a one-time grant of 3,000 incentive stock options (ISOs) when I started. **This was the first time I had ever received stock options in my life.** Between 1997 and 2000, the company grew rapidly, and the stock split a few times, and the increasing stock price ended up making those options very valuable. Before the year 2000, I had exercised and sold some of the options that had vested, mainly to get a down-payment for my first house. But in the year 2000, because more than half of my options had vested, I decided to accelerate exercising many of these options.

I knew very little about the tax ramifications of exercising and holding ISOs, so I hired a professional tax advisor who had been recommended to me by several co-workers (who were in situations similar to mine). My tax advisor recommended an on-going, well-timed exercise-and-hold strategy, which would allow me to best benefit from the tax laws over the next several years. This seemed logical to me. **Unfortunately, he did not warn me of the risks involved with exercising and holding ISOs, should the stock price decline dramatically.** And because until that point I had only done same-day sales of my options, I was not familiar with the different tax treatments.

During the year 2000, I exercised and held approximately 4500 options, worth approximately \$470,000 on the purchase date. And for most of the year 2000, the stock price continued to trade considerably higher than my purchase price. My trading window for the year closed in mid-December of 2000, and even in early December the stock price was still above my purchase price. Of course, the stock price declined dramatically thereafter. I didn't realize there was a problem until **my tax advisor told me in March of 2001 that I owed approximately \$165,000 in combined federal and state tax. I was shocked and amazed, because my gross annual salary at that time was only about \$85,000.** Frankly, I didn't think it was possible that a taxpayer could be required to pay more in taxes than he/she actually earned.

After my tax advisor explained that I would not be able to discharge the AMT by selling the shares (because the AMT is an immediate tax on **potential** earnings, not on real money), I was forced to exercise and sell even more options in order to cover my tax liability. I was luckier than most, in that my company's stock price decline was less rapid than most tech stocks at that time.

As of this writing in June, 2005, the federal and state governments still hold over \$108,000 of my money in so-called "AMT credits." This is money that I could use to pay off my house, invest in my future, and prepare for retirement.

After being victimized by the AMT treatment of incentive stock options, I have the following observations:

1. **The alternative minimum tax can be an unfair tax on phantom gains that may never be realized.** For incentive stock options, because the AMT is based on the tax that would be owed on the day of exercise, it does not take into account the possibility of a dramatic drop in the stock price. It also does not seem to take into account that for various reasons (holding periods, black-outs, complexity of the rules, etc.) a taxpayer may be unable to sell the shares in response to such a dramatic drop.
2. **The AMT rules are very difficult to understand.** Even with the assistance of a professional tax advisor, I encountered a situation that could have easily bankrupted me. And since the year 2000, I have read 2 books on the AMT, and done much internet research on the AMT. I still don't feel like I understand the AMT rules very well. Each rule seems to have multiple "except if" clauses. Thanks to the complexity of the AMT rules, I am forced to hire a professional tax advisor every year to prepare my tax return. I also find it very difficult to plan future financial moves because I am unsure of how they will affect my tax liability and the return of my AMT "credits."
3. **Current tax laws allow no solution to easily recovering the AMT taxes pre-paid on phantom profits.** Even if a citizen like me is able to meet the tremendous burden of the AMT, the rules for returning the AMT "credits" are designed to make it a very long and arduous process, in some cases requiring many decades. Recovery of "credit" is hastened only by dramatically increasing your earnings and/or by creating capital gains. And both of those solutions are not generally easy to do! **In my personal opinion, speeding up the return of the AMT "credits" is the most important part of AMT reform.**
4. **AMT "credits" (prepaid taxes) are lost forever if the citizen dies.** If I was to die in an accident tomorrow, the \$108,000 of mine that the government holds in AMT "credits" would be lost to me and my heirs forever.

Although the tax rules claim to provide a benefit for investors who exercise stock options and hold onto the stock, **I will never again exercise and hold any incentive stock options. Because of the AMT treatment of ISOs, it's just too much of a gamble.**

I respectfully and urgently request your support of H.R. 3385.

Thank you for your attention.

Phillip Thompson

Tewksbury, Massachusetts 01876

June 20, 2005

To Honorable Chairman William M. Thomas and House Ways and Means
Committee—Tax Reform Hearing

Dear Chairman Thomas and Committee Members:

In 2000 my husband and I purchased some of my options from Nortel Networks. I had been there for over 8 years so the options were fairly low priced. Our goal was to start acquiring shares to sell at some point to put towards our kids education, we figured if we bought and held for a year we would have 20% more to put down, but not having to pay the short-term capital gains. Logical, until we learned that next April 15th that we owed the government approximately \$75,000 for shares that we paid approximately \$8000 for.

I left my accountants office in tears. And since my accountant is my Dad, he felt pretty bad about it. We didn't have \$75,000 available; we had to take it out of our home equity loan. I was physically sick for a month thinking about it.

It is now 2005 and we finally did get to recuperate some of our AMT tax when we sold some shares in 2003, but it is going to take us 3-4 years to get it all back. So our kids got whacked in the end with us not being able to put as much money into their college savings funds. I am lucky that my husband makes over \$100,000 a year and it won't take us 20 years to get back all the money. I can't imagine all of the people out there that don't make a lot of money and were just trying to get ahead and their lives were ruined financially.

Some of the stories of the people who are members of ReformAMT are heart wrenching. People lost their homes, declared bankruptcy . . . etc. I am only thankful that I was not one of those people and was fortunate enough to have the financial means to deal with the loss.

Please contact me if you need any more information.

Susan Timmons

Menlo Park, California 94025
November 10, 2005

To the Distinguished Members of the Ways and Means Committee:

I am writing to urge you to support the prompt passage of H.R. 3385 to reform the handling of the Alternative Minimum Tax credit. In 1999, my wife and I paid a very large AMT tax bill as the result of stock option compensation. Ultimately, we did not realize any financial gain on the stock in question, but paying the tax bill required us to liquidate all of our life savings.

My wife and I continue to be unable to afford a home because all of our savings were depleted by this tax bill, and our only hope of owning a home some day will be to get a refund of the AMT credit we now carryover every year. Under the current system, we get a small refund of the credit every year, and I estimate that it will take roughly 70 years at this rate to get a full refund of our federal AMT credit.

I am not asking for a tax break, or to pay less than my fair share. I only ask you to reform the handling of the AMT credit so that the tax refunds that I am entitled to receive can be returned to me promptly, at a time when they are most needed.

Thank you very much.
Sincerely,

David M. Tompkins

Batavia, Illinois 60510
August 26, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have not previously submitted my testimony to any previous Ways and Means Committee proceedings.

I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

I am writing for myself and others in a similar position who have suffered financial hardships as a result of the Alternative Minimum Tax.

I work for a small technology consulting firm that used incentive stock options as part of its compensation. Believing in the company and its future and being hamstrung by rules that dictated when I had to exercise and when I could sell, I exercised and held good portions of the stock granted to me as ISOs. However, the antiquated and complex rules of the AMT, as I understand were created to catch the wealthiest individuals in the U.S. from sheltering gains from the government, have now caught unaware many middle and upper middle class Americans who have worked hard for what they have earned. Since the AMT requires the gains to be calculated at the time of exercise not at the time of sale, I owed nearly \$250,000 in taxes based on paper profits not on actual gains. Calculating tax on paper gains is wrong and unfair. While I did not suffer as badly as others, at the time the \$250,000 was twice my annual income. While I continue to work for the same company today and I continue to hold its stock, I am very disenfranchised with the tax policy and urge you to take a stand and retroactively eliminate the AMT. Demonstrate to the people that you represent, that you believe the government should not continue to support unfair tax policies and now tax policies that discourage individuals from taking chances with small businesses.

Thank you for your time and consideration.

I respectfully and urgently request your support of H.R. 3385.

Daniel Toth

Winnetka, Illinois 60093
August 25, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have submitted my testimony and shared my family's story at these events:

6-15-2004 Hearing on Tax Simplification, Oversight sub-Committee
Spring/Summer 2005, President's Tax Reform Advisory Panel

I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385, The AMT Credit Fairness Act.

My name is Ron Vasaturo and I am writing on behalf of the Vasaturo family. We're writing to ask that you help change the Alternative Minimum Tax (AMT) provisions which have caused a great hardship to our family, unfairly. We ask that you recommend reform to the Alternative Minimum Tax provisions to allow the AMT credit for the Prior Year Minimum Tax to be applied up to 100% of the taxpayer's ordinary income tax. We are middle income taxpayers in our 50's that have a large AMT credit we will take to our grave unless the AMT provisions are revised to allow use of the credit towards ordinary income tax.

In 2001 we had to pay an extremely large alternative minimum tax—\$250,000—for money we never received and never will receive. The \$250,000 AMT tax was on top of the taxes we paid on our earned income. In 2000, I worked for a high technology company that provided me with incentive stock options each month, in lieu of any annual salary increases. Because my wife and I were in our 50s we decided to exercise the stock options each month and set aside the stock for retirement purposes. The company encouraged this, emphasizing the benefit of long-term capital gains if we held onto the stock. We had no idea that the difference between the exercise price and the market value of the stock at the time of exercise would be considered income for alternative minimum tax purposes. We had never experienced stock options before. We thought we were to pay any taxes owed when we sold the stock, if we realized a gain. Having worked hard our entire lives and saved conservatively for a hoped-for retirement, we have always paid our fair share of taxes as part of what it means to be citizens of this country. So we expected that any real gain from stock options would be appropriately taxed. However, in 2001, when we prepared our tax return, we learned of our mistake and our whole world turned upside down.

By 2001 the stock had dropped precipitously in value (the tech bubble burst), and, within a few months, my employer went bankrupt and I lost my job. We sold the stock for pennies a share, at a very substantial capital loss. We paid the huge AMT sum we owed in 2001 by liquidating our bank account and retirement mutual funds, funds we held sacrosanct and had never touched before. Understandably, we had spent many years saving towards achieving a retirement that could provide us with at least some dignity in our ability to meet life's future costs (medical expenses, etc.). Because of our ages (now 55 and 57), we are possibly the flip side of what is too commonly, and easily, thought of as the young college graduate who joins the Internet dot-com for fame and quick riches. We simply do not have the earning years left to recoup what the AMT has taken from us as taxes for money that we never received.

As we understand, the AMT we paid because of incentive stock options is supposed to be a pre-paid tax that can be recouped in later years. That is not the way the law is working for us. We don't earn anywhere near enough income to be able to use our AMT credit. (Ironically, President Bush's recent tax cuts exacerbated this situation.) In order to be able to use the credit, one has to have a very high income—otherwise the ordinary tax does not exceed the AMT, and one can't use the credit.

In 2001 and 2002 when we sought assistance and information from the IRS on how incentive stock options, capital losses, and AMT work, we only received incorrect and conflicting information. The IRS staff, and I spoke to several different people at the Service, did not seem to understand how the alternative minimum tax provisions work. When we sought assistance from tax accountants, we discovered the tax accountants did not understand this complex area of the law.

This seems very unfair that we have been victimized so harshly by the unintended consequences of the Alternative Minimum Tax. We ask that the law be revised so that we can fully apply the credit to our ordinary income tax. We are seeking your help in recommending that taxpayers be allowed to apply the AMT credit for the Prior Year Minimum Tax up to 100% of their ordinary income tax.

Thank you very much for the opportunity to provide you these comments and we hope that this Panel will recommend changes to the law that will enable us to fully use our AMT credit so that we can one day pursue a retirement that we have worked so long and hard towards.

I respectfully and urgently request your support of H.R. 3385.

Ronald Vasaturo

Cedar Rapids, Iowa 52403
September 7, 2005

Honorable Representatives
 House Ways and Means Committee
 U.S. House of Representatives

Dear Representatives:

My name is David Vercande and I am providing this correspondence on behalf of myself and my wife, regarding a significant tax credit we have accumulated that we will most likely never realize under current tax laws. We paid this tax as a result of the Alternative Minimum Tax on the exercise of incentive stock options.

It has come to my attention that a new bill (H.R. 3385) addressing Alternative Minimum Tax due to incentive stock options, has been introduced which would provide a wonderful benefit to me and my family. I'm sure you understand the details of the bill so I won't take up your time reiterating the details. I simply want to let you know that the unfair tax that I paid has had a major impact on my retirement savings and the savings for my children's education. I'm asking you to please support this bill and do whatever you can to see that it becomes law. If you would like any further input from me I would be glad to provide details.

Sincerely,

David J. Vercande

Statement of Mike Wertheim, Oakland, California

I have submitted this story in previous years. I am submitting my story now to ask you to please support bill H.R. 3385.

I am an average middle class employee. In 2000, I worked for an internet company called Critical Path. I received incentive stock options as part of my compensation. I exercised the stock and have not sold it. No one ever advised me to sell the stock before the end of the calendar year to avoid certain Alternative Minimum Tax problems. By the time my accountant prepared my income tax bill for 2000, the Alternative Minimum Tax on my stock was \$64,000. This is despite the fact that the current value of the stock at the time was only \$8,000 (and is now worth only \$500). The \$64,000 tax bill far exceeded my net worth.

I paid the entire \$64,000 tax bill on April 15, 2001 and generated a \$64,000 tax credit, by liquidating savings and borrowing money from my family. At this rate, it will take me over 20 years to use up my AMT credit because the tax code allows me to apply only \$3000 of my AMT credit towards my income tax each year. Essentially, I have been forced to make a \$64,000 20-year loan to the government interest-free.

Some day my wife and I would like to buy a house and send our daughter to college, but both of those plans are on hold until we can regain our financial standing. After my parents loaned me money to pay my tax bill, the rest of the family is feeling the financial pain, too. My parents, who are both in their 60s, no longer feel that they have enough money for their retirement. All of this happened because the AMT laws forced me to pay a large tax on income that I never actually received.

H.R. 3385 will be a great improvement to the tax code. Taxes should not exceed the value of the actual gain being taxed. It will make it possible for people in my situation to make quicker use of AMT credit. I respectfully and urgently request your support for H.R. 3385.

Gilbert, Arizona 85234
September 12, 2005

Dear Honorable Chairman Camp and Ranking Member McNulty:

I have submitted my testimony and shared my story at these following events:

- 6-15-2004, Ways & Means Hearing on Tax Simplification, Oversight sub-Committee
- 6-08-2005, Ways & Means Hearing on Tax Reform, Full Committee
- July 2005, President's Tax Reform Advisory Panel

I now wish to share my story directly with you in hopes of garnering your support and leadership of the Honorable Sam Johnson's H.R. 3385.

I feel compelled to tell you about an issue which has and is devastating many American people. I am speaking, of course, about inequitably taxing individuals via the Alternative Minimum Tax (AMT). The AMT has become a particularly critical issue for many Americans for the past several tax seasons and looks to remain critical for many years to come.

As a working professional for the past 20 years I was fortunate to work for a company that offered ISOs as additional compensation for my hard work. After acquiring much of my stock in contemplation of retirement, I held it so as not to be penalized for selling it in the short term. I then watched helplessly as my dream of retirement vanished. My loss was not the result of the drop in stock price but the inequitable taxes I faced under the AMT.

I lost about 75% of my retirement nest egg because of the unexpected \$460,000 AMT bill and a \$200,000 margin loan left over from meeting the tax obligation, which accumulated thousands of dollars of interest monthly. After several years of anguish and finally selling additional stocks to pay the margin loan created by the AMT, the end result was a loss of 32,000 of my 36,000 shares of stock, which I had accumulated over the past 20 years. Not only did I lose the 18,000 shares I exercised that particular year, which created the AMT, but I also lost 14,000 shares I had accumulated, owned, and had paid taxes on already for the previous 20 years. When the dust settled I was left with 4,000 shares of stock out of 36,000; I had to use the rest to pay taxes on a gain I never realized.

Some type of reform and return of taxes paid on my imaginary gain are all I can hope for along with a hope that some of my remaining investments will recover, but I now realize I will never be as financially independent as I once was. The damage has been done and I will never be able to recover the investments that I liquidated to pay this tax.

Please do not misunderstand me; I have no problem paying my tax obligation, but I should have paid it on my actual gain when I realized it—not on an imaginary paper gain that never materialized, thereby devastating my financial future.

Because of this outdated law, I, along with many of my co-workers, friends, family, and many Americans, now find myself in this dreadful situation. Many American families are now on the verge of declaring bankruptcy and others are forced to sell assets (including their children's college, savings, cars, refinancing or selling of homes, 401k/IRA pension plans liquidation etc.) to help pay the taxes on monetary gains that they never realized.

Some may argue that this tax payment actually becomes a credit, yet in most instances it is a credit that the taxpayer can never recover. It is doubtful my investments will ever see the growth seen in the 1990's and, therefore, I will never be able to realize any significant returns from my huge credit. In essence, the taxpayer can lose all their investment money, and also other assets, simply to create a tax credit in their IRS account.

This practice of requiring the payment of taxes when stock is purchased is misguided and can lead to dangerous economic consequences. Forcing people into bankruptcy and draining life long retirement savings does not serve the interests of hard working Americans.

Your support is needed, now, to circumvent the damage being caused by the existing law and to help those whose financial future was ruined. We respectfully ask that you further investigate the disastrous consequences of the Alternative Minimum Tax and please support all efforts towards reform and recovery for those who have lost their hope of comfortable futures in their senior years.

I respectfully and urgently request your support of H.R. 3385.

Very Sincerely,

Jeff Wienrich

